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House of Representatives

The House met at 10 a.m.

Imam Yahya Hendi, Muslim Chaplain, Georgetown University, Washington, D.C., offered the following prayer:

A reading from the Holy Koran, the Muslims' Holy Scripture, chapter 5, verses 8 and 9:

"And remember the favor of God unto you, and His covenant, which He ratified with you, when you said: 'we hear and we obey.' Fear God, for God knows well the secrets of your hearts. O you of faith! Stand up firmly for God, as witnesses to fair dealings. Let not the hatred of others to you make you swerve to wrong and depart from justice. Be just, that is next to righteousness. Fear God for God is well-acquainted with all that you do."

And now let us bow our heads before God and pray:

Loving God!

Source of justice, goodness and generosity!

We ask You to guide the men and women of this Congress with Your divine light, to empower them with Your wisdom, to enable them to be agents of peace in this Nation and around the world.

Help them lead us to act as brothers and sisters. Empower them to help us work out our differences. Help them help us confront hatred wherever it exists that we all may live as one Nation, united, under God.

God!

Receive our thanks and hear our prayers. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Ohio (Mr. KUCINICH) come forward and lead the House in the Pledge of Allegiance.

Mr. KUCINICH led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOMING IMAM YAHYA HENDI

(Mr. LAFALCE asked and was given permission to address the House for 1 minute.)

Mr. LAFALCE. Mr. Speaker, as we begin Ramadan, we are especially pleased to have a Muslim Imam give our opening prayer to the House of Representatives. I am honored to welcome Imam Yahya Hendi as our guest chaplain this morning, and I thank him very much for those inspiring words and reading from the Koran.

Imam Hendi currently serves as the Muslim chaplain at Georgetown University, which is where I first heard him. He also serves as spokesman and member of the Islamic Jurisprudence Council of North America and directs the "PEACE" office of the Muslim American Society. Now an American citizen, Imam Hendi was born in Nablus in the Palestinian Territories and educated at the University of Jordan in Amman and the Hartford Seminary in Connecticut. He was one of the Muslim leaders who met with President Bush in the aftermath of the September 11 tragedy.

I asked Chaplain Dan Coughlin to invite Imam Hendi to deliver our opening prayer today to mark the commencement of Ramadan, the Islamic holy month of fasting and spiritual renewal. Observance of Ramadan begins tomorrow evening at dusk, and fasting will commence at sunrise on Saturday.

There are 1.5 billion Muslims in the world, including almost 7 million in

the United States alone. During these troubled times, I believe it is important to show all Muslims and the world our good will toward the Muslim community and our respect for the Islamic faith.

Again, our thanks and appreciation to Imam Yahya Hendi for offering our opening prayer this morning.

COMMUNICATION FROM THE HONORABLE GARY A. CONDIT, MEMBER OF CONGRESS

The SPEAKER pro tempore (Mr. HANSEN) laid before the House the following communication from the Honorable GARY A. CONDIT, Member of Congress:

NOVEMBER 14, 2001.

Hon. DENNIS J. HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House of Representatives, that my office has been served with a grand jury subpoena for documents issued by the Superior Court of the District of Columbia.

After consultation with the Office of General Counsel, I will make the determinations required by Rule VIII.

Sincerely,

GARY A. CONDIT,
Member of Congress.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. There will be 10 one-minutes on each side today.

WELCOMING IMAM YAHYA HENDI

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, I am delighted to join in welcoming visiting chaplain Imam Hendi as we greet the onset of the holy month of Ramadan.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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Islam is a way of life for millions of Americans, and we in the Congress want them and all Americans to know of our Nation's view that Islam should be understood as a faith that firmly upholds the values of respect for the individual human being, the value of the family, and justice for all. We join the growing American Muslim community in condemning those who try to tell us otherwise and who commit crimes against humanity in the name of Islam.

Congress has expressed itself formally in condemnation of those who, in the wake of the events of September 11, took illegal actions against people solely because they were, or seemed to be, Muslims. Moreover, we support the President in his forthright expressions against all such illegal actions, his prosecution of those who commit such crimes; and we join President Bush's assurances that our efforts in Operation Enduring Freedom against terrorism are not directed against Islam or against Muslims.

Mr. Speaker, to the contrary, we embrace our fellow citizens who are Muslims and all those of the Muslim faith who are temporary or permanent residents here as adherents of one of the three great religions in the monotheistic tradition.

Accordingly, Mr. Speaker, at the beginning of this holy month, we extend our warmest greetings to the American Muslim community; and we wish them a blessed Ramadan.

AMERICAN JURISPRUDENCE SYSTEM

(Mr. KUCINICH asked and was given permission to address the House for 1 minute.)

Mr. KUCINICH. Mr. Speaker, we all agree that terrorists should be brought to justice. But what kind of justice? The American jurisprudence system is the envy of the free world with its emphasis on due process. Yet the recent executive order substitutes our American justice system for military tribunals, where officers sit as judge and jury with secret evidence, secret witnesses, secret verdicts, and even secretly handed-down death sentences.

This order is not reflective of the workings of the great solons of the law whose likenesses ring this Chamber. This is not reflective of Jeffersonian democracy. This is Kafka's trial writ large. We cannot, we should not let the actions of terrorists cause us to reject our American system of justice. The ultimate terror in a democracy is the destruction of constitutional principles.

Let us defend against terrorism, and may we always remain one Nation, under God, indivisible with liberty and justice for all.

URGING ACTION ON AIRLINE SECURITY AND ECONOMIC STIMULUS BILL

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, if you read Roll Call today, you will realize that the majority leader of the other Chamber decided at a very important engagement with President Putin to make a joke about his height. A few months ago, he seemed to make the same reference to our own President when he questioned his international stature. The gentleman must obviously have a height fetish. Rather than focusing on things we can do for our country, he is making fun of the gentleman's stature.

Our President has led us successfully in Afghanistan. The words from the field include: "The Taliban's on the run"; "we're focusing in on bin Laden"; and "we're going to achieve our goal because the United States and its allies remain committed to the end of terrorism."

I salute our President. I urge the majority leader of the other body to quickly take up the airline security bill which the House passed which includes options for localities to hire the kind of screeners they need to protect the traveling public. I also urge him to take up the economic stimulus bill that is ready at his desk and ready for the American economy.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded not to make mention of Members of the other body.

WELCOMING IMAM YAHYA HENDI

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, as co-chair of the new Democratic Caucus working group on Central Asia and the Middle East, please let me warmly welcome Imam Yahya Hendi to the people's House.

His prayer ascends to the God of us all, who "shows us the straight way, the way of those on whom grace is bestowed, and whose portion is not wrath, so we will not go astray."

Mr. Speaker, I am fortunate to represent a region of our Nation where Muslims for generations along with faith-filled people from all denominations and those of secular persuasion have joined together in an interfaith mission to promote tolerance, understanding, and to advance social justice.

We have built homes for the poor through Habitat for Humanity. We work together in the campaign to erase hatred. Ours is a peaceful community and a patriotic community. Indeed, in

my district, Muslims have made history. They have become prominent citizens in all walks of life: medicine, engineering, law, business, education, and entertainment.

Our citizens built the first mosque in Ohio and the third in our Nation. And just after September 11, people of faith joined hands around our Perrysburg mosque in a strong show of unity with our common bond to the Creator of us all.

During the upcoming Ramadan, Christmas, and Hanukkah seasons, may our national mosaic shaped by people who have come here willingly from throughout the world shine beautifully as an example of how people can live together with respect for one another and without fear.

□ 1015

CONGRATULATIONS TO CORAL GABLES FIRST UNITED METHODIST CHURCH ON ITS 75TH ANNIVERSARY

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, this year marks the 75th anniversary of the Coral Gables First United Methodist Church, and I congratulate its clergy and its parishioners.

Since July of 1926, when 100 Coral Gable citizens gathered to charter a United Methodist church, First United has been a spiritual beacon to its community.

With the current leadership of Senior Pastor John Harrington, the church continues its mission of serving south Florida by reaching out to all communities with its message of hope and love. Church members operate a "Pastor's Pantry" and a "Sharing Place" to provide immediate food and clothing needs to the destitute.

The Church also supports many ministries: Habitat for Humanity, the Community Partnership for the Homeless, the Agape Women's Center, and the Riverside House, just to name a few. Funding missions all over the world that bring the promise of Jesus Christ and that relieve suffering in the world have always been priorities for the Coral Gables First United Methodist Church.

Mr. Speaker, I ask my congressional colleagues to join me and the Matson family in congratulating the Coral Gables First United Methodist Church. May it continue serving with love and devotion as a spiritual center for many of our south Florida residents.

CHINA IS DESTABILIZING THE WORLD WITH AMERICAN CASH

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute.)

Mr. TRAFICANT. Mr. Speaker, a report said China is selling missiles to

our enemies. The report said China sold missiles and technology to Iran, Iraq, Libya, Syria, and Pakistan. In addition, China sold nuclear technology to Iran and Pakistan, and it has been confirmed by American officials. The report further said that these Chinese sales will enable Iran to deploy nuclear warheads in the near future.

Beam me up here. China is destabilizing the world with American cash. That is no laughing matter. I yield back all those American flags that were recently passed out at the Wizards game that were made in China.

THE TIME IS NOW TO PASS AN AIRLINE SECURITY BILL

(Mrs. MYRICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MYRICK. Mr. Speaker, I rise today to urge my colleagues to pass an airline security bill.

The holiday season is going to begin next week, and millions of Americans will be flying to see their loved ones. It is ridiculous that Congress is dragging their feet. It should have been done weeks ago.

We need to make sure that the skies are safe for all people so they feel secure. It is understandable that folks are still anxious about flying. That is why we must act. We must reach a compromise. We must restore confidence in the American public so they will fly on the planes, and we must send a message to the terrorists that they are not going to scare us into changing our way of life.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HANSEN). The Chair will extend the number of 1-minute speeches to 15 on each side.

IN RECOGNITION OF THE HOLY MONTH OF RAMADAN

(Mr. BONIOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR. Mr. Speaker, I rise in recognition of the beginning of the holy month of Ramadan. For nearly 7 million Muslims in America and more than 1 billion worldwide, this is a period of introspection and faith. As Muslims prepare for the daily fast, they begin a month of deep spirituality and communal observance.

Like many things related to Islam in America, Ramadan is not well understood by most Americans. The word "Ramadan" comes from the Arabic root word for "parched thirst" and "sun-baked ground."

Some say the word expresses the hunger and thirst felt by those who spent the month in fasting. Others sug-

gest it is so-called because, during Ramadan, hearts and souls are more readily receptive to the admonition and to the words of God, just as sand and stone are receptive to the sun's heat.

Ramadan is a beautiful work that truly captures the spiritual and the physical renewal of this most treasured time for Muslims. Americans have benefited immensely from learning more about these traditions.

I join my colleagues today in sending our message of solidarity and warm greetings for a blessed beginning to the holy month of Ramadan for all Muslims, here at home and around the world.

YUCCA MOUNTAIN JEOPARDIZES NATIONAL SECURITY

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, yesterday the Nuclear Regulatory Commission joined the Department of Energy in what appears to be a collusion to ignore public safety. An NRC statement said that it believes that the Department of Energy has done all the work necessary for approval to license Yucca Mountain. Earlier this week, the Yucca project chief for the DOE said that the analysis for terrorist threats would not, I repeat, would not, be included in a final report to the Secretary of Energy.

Well, Mr. Speaker, the last time I checked, we were at war with terrorism; and it seems to me that a giant mountain filled with 77,000 tons of nuclear material located near Las Vegas, Nevada, makes an unfortunate, yet attractive, target for these evil terrorists. It is simply reckless and irresponsible for the DOE and the NRC to ignore the threat of terrorism.

It is obvious that the DOE and NRC are on a mission to store nuclear waste at Yucca Mountain at any price. Unfortunately, that price may be the safety of the American people.

PUTTING BOOKS IN THE HANDS OF CHILDREN

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, I just left a wonderful event at Union Station sponsored by First Book, Coca Cola, and Scholastic Educational Services.

We all know that the mission of First Book is to put a book in the hands of children and encourage them to read. They are going to be there the rest of the day, so I am encouraging people to go by, sign this giant book, because for every signature that they get, some child is going to get their very own book to read.

RECOGNIZING THE VISION AND ACHIEVEMENTS OF HARRY W. COLMERY

(Mr. RYUN of Kansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYUN of Kansas. Mr. Speaker, I rise today to recognize the vision and achievements of Mr. Harry W. Colmery of Topeka, Kansas. Mr. Colmery's efforts led to the enactment of the GI Bill of Rights in 1944. This bill made a college education possible for 2 million veterans and has also allowed for more than 2 million others to buy homes for their families.

In December of 1943, Harry Colmery, the National Commander of the American Legion, wrote the first draft of what became the Servicemen's Readjustment Act, known as the GI Bill. Thanks to the work of Mr. Colmery and others, his bill was signed into law by President Roosevelt some 6 months later.

The GI Bill continues to serve as a fitting reward to servicemen and women who have risked their lives to protect our freedom. Millions were able to better themselves and their families through higher education.

For this reason, I am asking President Bush to posthumously award the Presidential Medal of Freedom to Harry W. Colmery, and I ask my colleagues to join me.

AVIATION SECURITY

(Mr. HOLT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOLT. Mr. Speaker, if we want to revitalize the airline industry, we have to get people back on the planes. It is clear that people do not feel safe flying. Airlines are losing money, and the number of passengers is way down. Yet, here we are, more than 2 months after the events of September 11 without an agreement on airline security.

To prevent future attacks and to restore the public's confidence in flying, we must take steps. We cannot just hope that the same security companies that have committed gross violations of current law will do a better job in the future. We have Federal oversight of private, for-profit companies right now; and the current system is not working. This is a very real problem, and it deserves a real solution.

Mr. Speaker, Congress should stay in session and pass an aviation security bill that protects the flying public.

WE NEED A REAL ECONOMIC STIMULUS PACKAGE FOR AMERICA

(Mr. TOOMEY asked and was given permission to address the House for 1 minute.)

Mr. TOOMEY. Mr. Speaker, hundreds of thousands of Americans are losing

jobs. We need an economic stimulus package now that will lower the Federal tax burden and, thereby, increase incentives to work, to save, to invest, to start new small businesses, to hire new workers.

We need to create an environment of opportunity, to help people get back to work, because the people that I represent of the Lehigh Valley and the Upper Perkiomen Valleys of Pennsylvania, they do not want to know how long they can stay out of work; they want to know how quickly they can get back to work.

The President has proposed and the House has passed a meaningful, tax-lowering, back-to-work economic stimulus package. And what is the other Chamber doing? Instead of a real economic stimulus package, the majority party in the other Chamber has proposed a package mostly consisting of unproductive government spending.

Unbelievably, less than 30 percent of the Senate Democrats' stimulus bill, so-called stimulus bill, is dedicated to actually increasing any incentives for new job creation. Instead, there is all manner of new spending. There is an expansion of authority for Indian tribes to issue tax exempt private bonds, there are increases in subsidies to bison ranchers and pumpkin growers, there is a tax credit proposed for using poultry waste to produce electricity.

Mr. Speaker, this is not economic stimulus; it is pork barrel spending. We need real economic stimulus.

CONGRESS MUST MOVE QUICKLY TO SAFEGUARD AIRLINE SECURITY

(Ms. WATSON of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WATSON of California. Mr. Speaker, our airline industry is vital to America's economic health. Our airlines not only employ over 1 million Americans, but they also provide the mobility upon which our modern economy and society is based.

In the wake of September 11, Congress passed a short-term boost for the airline industry. But the only way to ensure the long-term stability of our air transport system is to reassure the public that air travel is safe.

In contrast to the speed with which this Congress enacted the \$15 billion quick-fix for airlines, the House dragged its feet on passing an airline security bill.

This week, another aircraft accident has caused further alarm for the flying public. While there is no reason to believe terrorism was involved, Americans need assurances that air travel is safe.

Mr. Speaker, please urge the conferees to finish their work this week and give us an aviation security bill that, like the original Senate version, can be passed unanimously into law.

TIME TO FEDERALIZE AIRPORT SECURITY

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, we need airport security, we want airport security, and we must have airport security.

When I say that, I do not mean Argenbright Security. Did we ever hear a worse oxymoron than using the term "Argenbright" and "security" in the same sentence? How can one claim to be a security company and let a man get through with seven knives, a can of Mace, and a stun gun? That is not security.

How can airlines keep hiring this company? Southwest and United up in Baltimore just hired them again to manage their security. How can anyone put confidence in a company that has repeatedly been fined for violations? How can anyone put confidence in a company that either does not do background checks or does them in such a shoddy way that felons can slip through their screening? How can anyone put confidence in a company when they are hiring new immigrants from the Third World to do their security checking?

What we are doing is not working. We need a change. The first change we need is to recognize that airport security is a Federal responsibility. Now, whether they are all Federal employees or not is not the point, but it is a Federal responsibility.

The other body needs to stop stonewalling and negotiate in good faith and get us an airport security bill today. The American public is losing its patience.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind Members that they should not characterize actions of the other body.

GLARING INADEQUACIES IN AIRPORT SECURITY DEMAND FEDERALIZATION OF AIRPORT SCREENERS

(Ms. WATERS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WATERS. Mr. Speaker, the gentleman from Texas (Mr. DELAY) and too many Republicans are holding the airline security bill hostage. They refuse to federalize airport screeners.

September 11 revealed the glaring inadequacies in airline security. Since September 11, a passenger entered the cockpit of an airplane and attempted to attack the pilot. In another well-publicized incident, a passenger was allowed to get past screeners with seven knives, a can of Mace and a stun gun.

Just a few days ago, at Boston Logan International Airport, an Argenbright security guard left her checkpoint unattended for several minutes, allowing people to walk through unchecked.

The American public does not feel safe, and we should be ashamed of the fact that we cannot get an airline security bill passed in this House. Enough is enough. We should not go home until we get it done this weekend.

Mr. Speaker, I challenge all of the Members of the House, but particularly those who are holding up this issue based on whether or not they will agree to federalize those screeners, to stop the politicking, to stop playing with people's lives. Let us get on with airline security.

□ 1030

URGING SENATE ACTION ON HUMAN CLONING BAN

(Mr. FERGUSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FERGUSON. Mr. Speaker, time is running out. With each passing day, scientists come closer and closer to cloning a human being. Step-by-step, they are completing a process whereby human life, the most sacred of gifts, is cheapened and devalued through mass production.

Mr. Speaker, I applaud my colleagues in the House for their hard work earlier this year in passing the Human Cloning Prohibition Act. But now is not the time to rest. Now is the time to continue our work and urge our Senate colleagues to listen to the voice of the American people and to vote to ban human cloning.

Mr. Speaker, I am proud of the Senate's compromise to bring this bill to the floor in a few months. Unfortunately, the time line for cloning science is set to outpace our own schedule.

Therefore, I urge my Senate colleagues to act now to bring this bill to a vote and to outpace this unethical misuse of science that would demean nature's work and degrade human life.

TRIBUTE TO MICHAEL G. MCGINTY OF FOXBORO, MASSACHUSETTS

(Mr. WATT of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATT of North Carolina. Mr. Speaker, on yesterday, my colleague, the gentlewoman from North Carolina (Mrs. MYRICK), and I announced, in the midst of all of the important other agendas that are going on in the House, an effort to pay tribute to all of the people who were killed in the September 11 disaster.

Today I rise to pay tribute to Michael G. McGinty, who, during his life in an Air Force family, moved many times. So when he and his wife, Cynthia, bought their first home in Foxboro, Massachusetts, he put down

roots, planted flowers to attract birds and butterflies, and became chairman of the deacons at Bethany Congregational Church.

But his great joy in life was being the father of David and Daniel. Ms. McGinty says, "I'm the one who would say it was time to do homework, but he would come and make it fun and games."

The night before Mr. McGinty left for his meeting at the World Trade Tower, he and his wife had a great conversation where everything clicked, and they felt really good about their family and children. She said, "I am so glad that the last conversation we had was a really good one."

I pay tribute to Michael McGinty today.

TRADE PROMOTION AUTHORITY

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, I rise to discuss the issue of trade promotion authority today.

The benefits of international trade have been clear for decades. Trade fosters not only economic growth, but also the growth of free and democratic societies around the world. As the most prosperous Nation in the world, we understand the importance of expanding trade, and expanding trade helps spread our values overseas.

It is not a coincidence that many of the economies most engaged in trade have also pursued political freedom. South Korea, Taiwan, and Mexico are just three examples. If economic isolation were the answer, then Cuba and North Korea would be among the wealthiest and most prosperous countries in the world.

Now more than ever the U.S. has a moral obligation to lead the fight for democracy around the world. Free trade offers one of the best ways to promote a democratic society. We must lead by example. Support trade promotion authority.

THE AVIATION SECURITY BILL

(Mr. CROWLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CROWLEY. Mr. Speaker, over the last 2 months we have seen reports of knives, guns, mace, and stun guns slip past keystone cop security guards at our Nation's airports, and still the GOP defends the third-rate rent-a-cops at our airports.

Two days ago, one of the airport screeners at Logan Airport in Boston who was tasked with protecting the traveling public left her checkpoint unattended for 4 minutes while passengers gained unfettered access to the gate area.

There have been over 90 breaches of security since September 11. In the

words of our colleague from Ohio, "Beam us all up. Have we totally lost it? Have we learned nothing from the events of September 11?" I find it incredible that negotiation for this bill have dragged on this long.

There is no compromise when it comes to the security of our aviation system. The status quo has failed us, and continues to fail us every day. We must do away with private security firms at these checkpoints and implement the federalization of our airport security apparatus immediately.

This country has suffered enough, and we have an obligation to protect each and every one of our citizens. We must do that today.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HANSEN). With reference to a previous speaker, the Chair reiterates that Members should not urge action by the other body.

TRADE

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, as Americans struggle with economic uncertainty, Congress seeks to stimulate our stalled economy and create new jobs. However, I daresay that many of my colleagues have overlooked one of the most consistent and dependable solutions available, one that Congress has the ability to foster: Trade.

Recent studies have found that if global trade barriers were cut by one-third, the world economy would increase by more than \$600 billion a year. Eliminating trade barriers altogether would increase the global economy by nearly \$2 trillion.

The infusion of this much capital into the world market would serve as an engine of economic growth and improve the standard of living for all Americans.

Also, it would be unwise to ignore the fact that, since 1990, more than 20 million new jobs have been created in the United States.

It is not merely coincidental that this increase corresponds to the enactment of trade agreements such as NAFTA and GATT. In fact, trade has stimulated job creation, resulting not only in new jobs, but in higher wages in those jobs supported by exports.

As we seek to alleviate economic hardship, the U.S. must look beyond our borders to increase interaction with our trading partners, and Congress can facilitate this by supporting trade promotion authority.

RAMADAN GREETING

(Mr. DINGELL asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, it is highly appropriate that we welcome Imam Yahya Hendi. This body represents all Americans, and it is extremely appropriate, then, that we should welcome the Imam today to help celebrate the commencement of the holy month of Ramadan, which is set to begin tomorrow.

Islam is not only one of the world's great religions, but it is one of the great American religions. American Muslims have immigrated to this country from all corners of the globe, and in all parts of the United States Muslims are valued, integral members of our communities.

It is an honor for me to represent the largest Arab American community in the United States. As Ramadan begins, I extend my personal greetings to all Muslim Americans, particularly my friends and constituents in Michigan's 16th District.

Mr. Speaker, I also send best wishes to our Muslim friends and allies in the Middle East and South Asia, as well as Muslims in all corners of the world. To our allies in the Islamic world, I would also like to express my gratitude for their friendship, particularly at this difficult time. As President Bush has pointed out, the United States is not at war with Islam. We are at war with terrorism.

Mr. Speaker, some of what has been said over the last couple of months has painted a highly inaccurate picture of Islam. Islam is not a religion of division and intolerance, but rather, a religion which values diversity and understanding. It is, above all else, a religion of peace and progress.

Americans must not tolerate injustices committed out of ignorance against any group of Americans, particularly against Muslim Americans, who share with us the horror of the events of September 11, which to them are particularly offensive because the Muslim community feels it is grossly improper that the perpetrators expressly attempted to use that faith as an excuse for a horrible crime.

In this month of introspection, faith, prayer, and cleansing, I again wish to relay my greetings and best wishes to the Muslims in southeast Michigan and in the United States, as well as all the Muslims in the world.

IN HONOR OF TUBBY RAYMOND'S 300TH WIN

(Mr. CASTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CASTLE. Mr. Speaker, I rise today to honor and pay tribute to a football legend, the great Harold Tubby Raymond, head coach of the University of Delaware Fighting Blue Hens.

A lover of sports since he was a kid, Tubby played football and baseball in college. Unable to hit the curve ball,

Tubby realized early on that his future was in coaching, and what a future he has had. Tubby won his 300th game on Saturday, November 10, 2001. He became one of only nine elite coaches to win so many games.

Most importantly, Tubby won them all at the University of Delaware. Three national championships, 14 Lambert Cups, four NAAC Coach of the Year awards, and 300 wins, all earned doing something he loves: Coaching young men to be extraordinary football players.

Tubby Raymond is more than your average football coach. Revered and respected by his peers, Tubby's name is synonymous with Bear Bryant, Joe Paterno, Eddie Robinson, and so many other football legends.

What many people do not know is that he is also an accomplished artist who paints portraits of senior players each week. What began as fun many years ago has turned into a tradition cherished by his players, while providing Tubby with a great escape.

Predictable as ever, upon winning his 300th game, Tubby Raymond gave the credit to his players, coaches, and fans who supported the Blue Hens during his 35-year career.

A great friend to all Delawareans, I want to join with his family, friends, and the football community in congratulating Tubby and wishing him a belated 74th birthday, and many more wins.

THE HIV AIDS CRISIS IN HAITI

(Mrs. MEEK of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEEK of Florida. Mr. Speaker, according to the World Bank, more than half a million people are living with HIV/AIDS in the Caribbean region, and the prevalence among adults 15 to 49 has reached 2 percent.

In Haiti, the situation is dramatically worse. Estimates reach as high as 12 percent of the urban population, and 5 percent for the rural population. We must speak very strongly for Haiti. We must speak very strongly against this HIV epidemic or pandemic that is going across our world.

The epidemic has spread beyond the high-risk population to the general population. Mr. Speaker, a regional strategic plan is in place to reduce the spread and impact of the epidemic in Haiti and throughout the Caribbean, but Haiti desperately needs the financial support of the United States, the World Bank, and the international community to implement it.

I have yet to understand why the United States is holding up its aid to Haiti. Mr. Speaker, Haiti has made considerable progress politically. It has now met virtually all of the conditions established by the United States.

I appeal to the Congress to press for relief for Haiti.

TRADE PROMOTION AUTHORITY FOR PRESIDENT BUSH

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mr. DREIER. Mr. Speaker, virtually every Member of Congress is talking about the need for us to turn around the economic challenges that we have faced leading up to September 11, and the situation which certainly was exacerbated with what took place on September 11.

We have right now an effort going on to put together an economic security bill which deals with putting in place both spending, opportunities to help those who are at the lower end of the economic spectrum, and also tax reductions, which are designed to encourage economic growth.

I think it is important for us to note that as we look towards job creation and economic growth, one of the most important things that this institution can do is to create an opportunity for President Bush and his team to go out and pry open new markets for U.S. goods and services throughout the world.

It is very apparent that within this hemisphere, every single one of the democratically elected leaders is committed to our goal of establishing a Free Trade Area of the Americas. Their goal is to have this done by 2005. Some of the countries would like to move it up even quicker.

But Mr. Speaker, unless we grant the President trade promotion authority, the ability to put together that very important Free Trade Area of the Americas and other agreements would be greatly diminished.

We will, in the not too distant future, be facing an opportunity to do something that will create jobs, help the workers in this country, and encourage economic growth, so I hope very much that, in a bipartisan way, our colleagues will join in support of trade promotion authority.

HAITI AND FUNDING FROM THE INTER-AMERICAN DEVELOPMENT BANK

(Ms. LEE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LEE. Mr. Speaker, I rise to urge the United States to lift its block on approved loans by the Inter-American Development Bank to Haiti.

Haiti is now in the midst of a political impasse that began months after the May, 2000 elections, and has become a national crisis. The United States has since blocked foreign assistance, as well as international financial institutions' funding for Haiti.

Meanwhile, a severe humanitarian disaster looms large over the population of 8 million people, including a devastating HIV/AIDS pandemic, ex-

treme poverty, and high infant mortality rates.

We must address this injustice. The people of Haiti need our support. Our country can help alleviate human suffering in this country in the Western Hemisphere. We must release these approved loans. They are not grants, mind you, but they are loans to Haiti.

□ 1045

NOT ENOUGH DISASTER RELIEF

(Mrs. MALONEY of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MALONEY of New York. Mr. Speaker, after the September 11 attacks, the administration told us it would do whatever it takes to help New York recover. Forty billion dollars was quickly approved, \$20 billion to fight terrorism and \$20 billion for disaster relief primarily for New York.

Well, yesterday, the Committee on Appropriations allocated that \$40 billion and New York got less than \$10 billion.

Now we want to know, what will it take for New York to get its fair share? Will it take a mass exodus from the city? Because people and businesses are making decisions to stay or go right now and New York's future hangs in the balance.

We are told that we will get the money eventually. I want to congratulate two of my Republican colleagues, the gentleman from New York (Mr. WALSH) and the gentleman from New York (Mr. SWEENEY), for their courage in saying eventually is not soon enough. That money was allocated for this year. Now we have to go and hunt for it somewhere else.

New York is one of the economic centers of America and it should not take this much trouble for America to give New York help.

HUMANITARIAN CRISIS IN HAITI

(Mrs. CHRISTENSEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CHRISTENSEN. Mr. Speaker, I rise to speak of humanitarian crisis, not half a world away in Afghanistan, but in our own hemispheric neighborhood of Haiti.

Mr. Speaker, airline security, the economy and the war have our full attention, and rightfully so, but closer to us in Haiti, the last election has been hopelessly deadlocked with no resolution in sight.

To compound the problem, because of the opposition of some to the outcome of those elections, our country and international financial institutions which hold the lifeline of aid dollars to this struggling democracy have blocked the release of loans to Haiti.

This has created a crippling effect of economic consequences where the poorest country in our hemisphere cannot

meet its financial obligations and food, medicine and life itself have been hung in the balance for 8 million people.

Let us not make the same mistake and ignore another country's turmoil, until a disaster too great for the imagination or easy recovery unfolds.

The people of Haiti need food, medicine and funds to combat an HIV infection rate of 4 percent of the population, an infant mortality rate of 74 deaths out of every 1,000 babies born and to improve their quality of life.

Mr. Speaker, the people of Haiti have voted and they know who they want to govern them. Let us respect that and allow the dollars for food and medicine to flow.

LAYING ON THE TABLE HOUSE RESOLUTIONS 179, 182, 217, 220, 236, 237, 258, 267 AND 268

Ms. PRYCE of Ohio. Mr. Speaker, I ask unanimous consent to lay on the table House Resolutions 179, 182, 217, 220, 236, 237, 258, 267 and 268.

The SPEAKER pro tempore (Mr. HANSEN). Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

RETIREMENT SECURITY ADVICE ACT OF 2001

Ms. PRYCE of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 288 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 288

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 2269) to amend title I of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to promote the provision of retirement investment advice to workers managing their retirement income assets. The bill shall be considered as read for amendment. In lieu of the amendments recommended by the Committee on Education and the Workforce and the Committee on Ways and Means now printed in the bill, the amendment in the nature of a substitute printed in part A of the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) one hour and 40 minutes of debate on the bill, as amended, with one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce and 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; (2) the further amendment printed in part B of the report of the Committee on Rules, if offered by Representative George Miller of California or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from Ohio (Ms. PRYCE) is recognized for 1 hour.

Ms. PRYCE of Ohio. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 288 is an appropriate but fair rule providing for the consideration of H.R. 2269, the Retirement Security Advice Act of 2001, and it is consistent with previous rules that our committee has reported and the House has adopted on bills affecting tax policy.

This rule provides for 100 minutes of general debate in the House with 60 minutes equally divided and controlled by the gentleman from Ohio (Chairman BOEHNER) and the ranking member of the Committee on Education and the Workforce, the gentleman from California (Mr. GEORGE MILLER). The remaining 40 minutes are equally divided between the gentleman from California (Mr. THOMAS) and the ranking minority member of the Committee on Ways and Means, the gentleman from New York (Mr. RANGEL).

In lieu of the amendments recommended by the Committee on Education and the Workforce and the Committee on Ways and Means, the amendment printed in Part A of the Committee on Rules report accompanying this resolution shall be considered as adopted.

I would simply note for my colleagues that this Part A amendment combines the provisions reported by the respective committees into one amendment. After general debate, it will be in order to consider only the substitute amendment offered by the gentleman from California (Mr. GEORGE MILLER) or his designee, printed in Part B of the Committee on Rules report and is debatable for 1 hour.

Finally, the rule permits the minority to offer a motion to recommit, with or without instructions.

The resume waives all points of order against consideration of the bill as amended, as well as the amendment in the nature of a substitute.

Mr. Speaker, today in America more and more working men and women are investing. We are no longer living in a world where only the richest Americans participate in the stock market. Today's workers are using worker-directed or 401(k)-type plans to manage and grow their retirement funds. In fact, it is estimated that some 43 million workers are, in part, managing nearly \$1.5 trillion dollars in assets through defined contribution plans.

Unfortunately, current law does not reflect the new world that we live in. For the average worker trying to get ahead, raising a family or simply pursuing the American dream in any way they choose, managing their retirement funds can be a daunting, difficult

and sometimes costly task, and current law is keeping them from getting the direction that they need.

Back home, I know many young people who are in their early careers or newly married. I see them and their spouses trying to understand today's complex financial reality. And these are smart kids. They know that you can never be too young to begin planning for your future. But with a future that involves starting a family, purchasing a home and a car, planning for children's educational needs, understanding investments for retirement is just one more difficult piece of a very complicated puzzle.

Everyone who enters the workforce has dreams of one day returning to full-time private life. Some dream of a house on the shore or a ranch out west. Others dreams are more modest, a small home close to family and friends. But the common theme of all retirement dreams is security, comfort and a small reward for a lifetime's work.

Planning for retirement today is not like it was when our mothers and fathers and even some of us were new to the workforce. Retirement planning does not simply involve Social Security and a savings accounts. Today's retirement planning requires an understanding of the many investment options and their attendant risk and benefits.

To be sure, planning for the future through investment is a welcome aspect of our country's financial progress and the continued expansion of options for American workers. But we would be remiss if we did not make sure that the law kept up with these widening options.

We must recognize that with the wealth of investment options available to workers, there must also be options for advice and direction. Workers need access to sound advice to help them maximize their retirement security as well as minimize their risk.

H.R. 2269, the Retirement Security Advice Act responds to this need and provides Americans with access to this help.

It allows employers to provide their workers with access to high quality, professional investment advice. It retains critical safeguards and includes new protections to ensure that participants will receive advice solely in their best interests.

Advice will be provided by fiduciary advisors who will be personally liable for failure to act solely in the interest of a worker and subject to both criminal and civil sanctions through the Department of Labor for any breach of their fiduciary duty. It is also important to note that all existing securities and State insurance protections will continue to apply as well.

H.R. 2269 also includes a strict, plain-language disclosure requirement to inform participants about any and all potential fees or possible conflicts of interest when advice is first given. Finally, it works to educate and empower

workers who have full control over their investment decisions and help to close the investment advice gap.

Mr. Speaker, like President Bush, I too trust Americans to manage their own money. Indeed, everyone should be a part owner in the American dream. This legislation will finally allow employers to sponsor investment advice for their workers and empower them to make decisions based on solid and experienced judgment. Today's workers have more choices for their future. Let us make sure they have the tools to know which choice is best for them.

Mr. Speaker, I urge all my colleagues to support this rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

(Mr. FROST asked and was given permission to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume, and thank my colleague, the gentlewoman from Ohio (Ms. PRYCE) for yielding me the customary 30 minutes.

Mr. Speaker, both the underlying bill and the Democratic substitute address an issue of great importance to the millions of Americans who will depend upon participant-directed pension accounts for their retirement income.

Nowadays, fewer and fewer employees have traditional pension plans. That means that more and more will depend heavily on investments for their retirement income. Currently, approximately 42 million workers participate in such accounts.

It is very important that these workers have access to sound financial planning and advice to help them make the most of their investments. It is also critical that the advice they receive is unbiased and in their best interests, not for the benefit of the advisor or counselor or the businesses they represent.

The Democratic substitute makes important improvements in the underlying bill. Specifically, the Andrews-Rangel substitute allows employees to receive investment advice and education from their employers, while still being protected from conflicts of interest and unqualified investment advisors.

The rule provides an hour and 40 minutes of debate on the bill and another hour on the substitute. Let us pass this rule so we may get on with the debate of this issue of importance to the American worker.

Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1100

Mr. BOEHNER. Mr. Speaker, pursuant to House Resolution 288, I call up the bill (H.R. 2269) to amend title 1 of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to promote the provision of retirement investment advice to workers managing their retirement income assets, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. HANSEN). Pursuant to House Resolution 288, the bill is considered read for amendment.

The text of H.R. 2269 is as follow:

H.R. 2269

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Retirement Security Advice Act of 2001".

SEC. 2. PROHIBITED TRANSACTION EXEMPTION FOR THE PROVISION OF INVESTMENT ADVICE.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Section 408(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)) is amended by adding at the end the following new paragraph:

"(14) If the requirements of subsection (g) are met—

"(A) the provision of investment advice referred to in section 3(21)(A)(ii) provided by a fiduciary adviser (as defined in subsection (g)(4)(A)) to an employee benefit plan or to a participant or beneficiary of an employee benefit plan,

"(B) the sale, acquisition, or holding of securities or other property (including any lending of money or other extension of credit associated with the sale, acquisition, or holding of securities or other property) pursuant to such investment advice, and

"(C) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of such investment advice."

(2) REQUIREMENTS.—Section 408 of such Act is amended further by adding at the end the following new subsection:

"(g)(1) The requirements of this subsection are met in connection with the provision of advice referred to in section 3(21)(A)(ii), provided to an employee benefit plan or a participant or beneficiary of an employee benefit plan by a fiduciary adviser with respect to such plan, in connection with any sale or acquisition of a security or other property for purposes of investment of amounts held by such plan, if—

"(A) in the case of the initial provision of such advice with regard to a security or other property, by such fiduciary adviser to such plan, participant, or beneficiary, the fiduciary adviser provides to the recipient of such advice, at the time of or before the initial provision of such advice, a clear and conspicuous description, in writing (including by means of electronic communication), of—

"(i) all fees or other compensation relating to such advice that the fiduciary adviser or any affiliate thereof is to receive (including compensation provided by any third party) in connection with the provision of such advice or in connection with such acquisition or sale,

"(ii) any material affiliation or contractual relationship of the fiduciary adviser or

affiliates thereof in such security or other property,

"(iii) any limitation placed on the scope of the investment advice to be provided by the fiduciary adviser with respect to any such sale or acquisition, and

"(iv) the types of services offered by the fiduciary adviser in connection with the provision of investment advice by the fiduciary adviser.

"(B) in the case of the initial or any subsequent provision of such advice to such plan, participant, or beneficiary, the fiduciary adviser, throughout the 1-year period following the provision of such advice, maintains the information described in clauses (i) through (iv) of subparagraph (A) in currently accurate form for availability, upon request and without charge, to the recipient of such advice,

"(C) the fiduciary adviser provides appropriate disclosure, in connection with any such acquisition or sale, in accordance with all applicable securities laws,

"(D) such acquisition or sale occurs solely at the direction of the recipient of such advice,

"(E) the compensation received by the fiduciary adviser and affiliates thereof in connection with such acquisition or sale is reasonable, and

"(F) the terms of such acquisition or sale are at least as favorable to such plan as an arm's length transaction would be.

"(2) A fiduciary adviser referred to in paragraph (1) who has provided advice referred to in such paragraph shall, for a period of not less than 6 years after the provision of such advice, maintain any records necessary for determining whether the requirements of the preceding provisions of this subsection and of subsection (b)(14) have been met. A transaction prohibited under section 406 shall not be considered to have occurred solely because the records are lost or destroyed prior to the end of the 6-year period due to circumstances beyond the control of the fiduciary adviser.

"(3)(A) Subject to subparagraph (B), a plan sponsor or other person who is a fiduciary shall not be treated as failing to meet the requirements of this part solely by reason of the provision of investment advice referred to in section 3(21)(A)(ii) (or solely by reason of contracting for or otherwise arranging for the provision of such investment advice), if—

"(i) such advice is provided by a fiduciary adviser pursuant to an arrangement between such plan sponsor or other fiduciary and such fiduciary adviser for the provision by such fiduciary adviser of investment advice referred to in such section, and

"(ii) the terms of such arrangement require compliance by the fiduciary adviser with the requirements of this subsection.

"(B) Nothing in subparagraph (A) shall be construed to exempt a plan sponsor or other person who is a fiduciary from any requirement of this part for the prudent selection and periodic review of a fiduciary adviser with whom the plan sponsor or other person enters into an arrangement for the provision of advice referred to in section 3(21)(A)(ii). Such plan sponsor or other person who is a fiduciary has no duty under this part to monitor the specific investment advice given by the fiduciary adviser to any particular recipient of such advice.

"(C) Nothing in this part shall be construed to preclude the use of plan assets to pay for reasonable expenses in providing investment advice referred to in section 3(21)(A)(ii).

"(4) For purposes of this subsection and subsection (b)(14)—

"(A) The term 'fiduciary adviser' means, with respect to a plan, a person who is a fiduciary of the plan by reason of the provision of investment advice by such person to

the plan or to a participant or beneficiary and who is—

“(i) registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) or under the laws of the State in which the fiduciary maintains its principal office and place of business,

“(ii) a bank or similar financial institution referred to in section 408(b)(4),

“(iii) an insurance company qualified to do business under the laws of a State,

“(iv) a person registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

“(v) an affiliate of a person described in any of clauses (i) through (iv), or

“(vi) an employee, agent, or registered representative of a person described in any of clauses (i) through (v).

“(B) The term ‘affiliate’ means an affiliated person, as defined in section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(3)).

“(C) The term ‘registered representative’ means a person described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) or section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(17)).”

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemptions from tax on prohibited transactions) is amended—

(A) in paragraph (14), by striking “or” at the end;

(B) in paragraph (15), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following new paragraph:

“(16) If the requirements of subsection (f)(7) are met—

“(A) the provision of investment advice referred to in subsection (e)(3)(B) provided by a fiduciary adviser (as defined in subsection (f)(7)(C)(i)) to a plan or to a participant or beneficiary of a plan,

“(B) the sale, acquisition, or holding of securities or other property (including any extension of credit associated with the sale, acquisition, or holding of securities or other property) pursuant to such investment advice, and

“(C) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of such investment advice.”

(2) REQUIREMENTS.—Subsection (f) of such section 4975 (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

“(7) REQUIREMENTS FOR EXEMPTION FOR INVESTMENT ADVICE PROVIDED BY FIDUCIARY ADVISERS.—

“(A) IN GENERAL.—The requirements of this paragraph are met in connection with the provision of advice referred to in subsection (e)(3)(B), provided to a plan or a participant or beneficiary of a plan by a fiduciary adviser with respect to such plan, in connection with any sale or acquisition of a security or other property for purposes of investment of amounts held by such plan, if—

“(i) in the case of the initial provision of such advice by such fiduciary adviser to such plan, participant, or beneficiary, the fiduciary adviser provides to the plan, participant, or beneficiary, at the time of or before the initial provision of such advice, a description, in writing or by means of electronic communication, of—

“(I) all fees or other compensation relating to such advice that the fiduciary adviser or any affiliate thereof is to receive (including

compensation provided by any third party) in connection with the provision of such advice or in connection with such acquisition or sale,

“(II) any material affiliation or contractual relationship of the fiduciary adviser or affiliates thereof in such security or other property,

“(III) any limitation placed on the scope of the investment advice to be provided by the fiduciary adviser with respect to any such sale or acquisition, and

“(IV) the types of services offered by the fiduciary adviser in connection with the provision of investment advice by the fiduciary adviser,

“(ii) in the case of the initial or any subsequent provision of such advice to such plan, participant, or beneficiary, the fiduciary adviser, throughout the 1-year period following the provision of such advice, maintains the information described in subclauses (I) through (IV) of clause (i) in currently accurate form for availability, upon request and without charge, to the recipient of such advice,

“(iii) the fiduciary adviser provides appropriate disclosure, in connection with any such acquisition or sale, in accordance with all applicable securities laws,

“(iv) such acquisition or sale occurs solely at the discretion of the recipient of such advice,

“(v) the compensation received by the fiduciary adviser and affiliates thereof in connection with such acquisition or sale is reasonable, and

“(vi) the terms of such acquisition or sale are at least as favorable to such plan as an arm's length transaction would be.

“(B) MAINTENANCE OF RECORDS.—A fiduciary adviser referred to in subparagraph (A) who has provided advice referred to in such subparagraph shall, for a period of not less than 6 years after the provision of such advice, maintain any records necessary for determining whether the requirements of the preceding provisions of this subsection and of subsection (d)(16) have been met. A prohibited transaction described in subsection (c)(1) shall not be considered to have occurred solely because the records are lost or destroyed prior to the end of the 6-year period due to circumstances beyond the control of the fiduciary adviser.

“(C) DEFINITIONS.—For purposes of this paragraph and subsection (d)(16)—

“(i) FIDUCIARY ADVISER.—The term ‘fiduciary adviser’ means, with respect to a plan, a person who is a fiduciary of the plan by reason of the provision of investment advice by such person to the plan or to a participant or beneficiary and who is—

“(I) registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) or under the laws of the State in which the fiduciary maintains its principal office and place of business,

“(II) a bank or similar financial institution referred to in subsection (d)(4),

“(III) an insurance company qualified to do business under the laws of a State,

“(IV) a person registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

“(V) an affiliate of a person described in any of subclauses (I) through (IV), or

“(VI) an employee, agent, or registered representative of a person described in any of subclauses (I) through (V).

“(ii) AFFILIATE.—The term ‘affiliate’ means an affiliated person, as defined in section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(3)).

“(iii) REGISTERED REPRESENTATIVE.—The term ‘registered representative’ means a person described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C.

78c(a)(18)) or section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(17)).”

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to advice referred to in section 3(21)(A)(ii) of the Employee Retirement Income Security Act of 1974 or section 4975(e)(3)(B) of the Internal Revenue Code of 1986 provided on or after January 1, 2002.

The SPEAKER pro tempore. In lieu of the amendments recommended by the Committees on Education and the Workforce and Ways and Means printed in the bill, the amendment in the nature of a substitute printed in part A of House Report 107-289 is adopted.

The text of H.R. 2269, as amended pursuant to House Resolution 288, is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Retirement Security Advice Act of 2001”.

SEC. 2. PROHIBITED TRANSACTION EXEMPTION FOR THE PROVISION OF INVESTMENT ADVICE.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) EXEMPTION FROM PROHIBITED TRANSACTIONS.—Section 408(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)) is amended by adding at the end the following new paragraph:

“(14)(A) Any transaction described in subparagraph (B) in connection with the provision of investment advice described in section 3(21)(A)(ii), in any case in which—

“(i) the investment of assets of the plan is subject to the direction of plan participants or beneficiaries,

“(ii) the advice is provided to the plan or a participant or beneficiary of the plan by a fiduciary adviser in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of plan assets, and

“(iii) the requirements of subsection (g) are met in connection with the provision of the advice.

“(B) The transactions described in this subparagraph are the following:

“(i) the provision of the advice to the plan, participant, or beneficiary;

“(ii) the sale, acquisition, or holding of a security or other property (including any lending of money or other extension of credit associated with the sale, acquisition, or holding of a security or other property) pursuant to the advice; and

“(iii) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of the advice or in connection with a sale, acquisition, or holding of a security or other property pursuant to the advice.”

(2) REQUIREMENTS.—Section 408 of such Act is amended further by adding at the end the following new subsection:

“(g) REQUIREMENTS RELATING TO PROVISION OF INVESTMENT ADVICE BY FIDUCIARY ADVISERS.—

“(1) IN GENERAL.—The requirements of this subsection are met in connection with the provision of investment advice referred to in section 3(21)(A)(ii), provided to an employee benefit plan or a participant or beneficiary of an employee benefit plan by a fiduciary adviser with respect to the plan in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of amounts held by the plan, if—

“(A) in the case of the initial provision of the advice with regard to the security or

other property by the fiduciary adviser to the plan, participant, or beneficiary, the fiduciary adviser provides to the recipient of the advice, at a time reasonably contemporaneous with the initial provision of the advice, a written notification (which may consist of notification by means of electronic communication)—

“(i) of all fees or other compensation relating to the advice that the fiduciary adviser or any affiliate thereof is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property,

“(ii) of any material affiliation or contractual relationship of the fiduciary adviser or affiliates thereof in the security or other property,

“(iii) of any limitation placed on the scope of the investment advice to be provided by the fiduciary adviser with respect to any such sale, acquisition, or holding of a security or other property,

“(iv) of the types of services provided by the fiduciary adviser in connection with the provision of investment advice by the fiduciary adviser, and

“(v) that the adviser is acting as a fiduciary of the plan in connection with the provision of the advice,

“(B) the fiduciary adviser provides appropriate disclosure, in connection with the sale, acquisition, or holding of the security or other property, in accordance with all applicable securities laws,

“(C) the sale, acquisition, or holding occurs solely at the direction of the recipient of the advice,

“(D) the compensation received by the fiduciary adviser and affiliates thereof in connection with the sale, acquisition, or holding of the security or other property is reasonable, and

“(E) the terms of the sale, acquisition, or holding of the security or other property are at least as favorable to the plan as an arm's length transaction would be.

“(2) STANDARDS FOR PRESENTATION OF INFORMATION.—The notification required to be provided to participants and beneficiaries under paragraph (1)(A) shall be written in a clear and conspicuous manner and in a manner calculated to be understood by the average plan participant and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of the information required to be provided in the notification.

“(3) EXEMPTION CONDITIONED ON CONTINUED AVAILABILITY OF REQUIRED INFORMATION ON REQUEST FOR 1 YEAR.—The requirements of paragraph (1)(A) shall be deemed not to have been met in connection with the initial or any subsequent provision of advice described in paragraph (1) to the plan, participant, or beneficiary if, at any time during the provision of advisory services to the plan, participant, or beneficiary, the fiduciary adviser fails to maintain the information described in clauses (i) through (iv) of subparagraph (A) in currently accurate form and in the manner described in paragraph (2) or fails—

“(A) to provide, without charge, such currently accurate information to the recipient of the advice no less than annually,

“(B) to make such currently accurate information available, upon request and without charge, to the recipient of the advice, or

“(C) in the event of a material change to the information described in clauses (i) through (iv) of paragraph (1)(A), to provide, without charge, such currently accurate information to the recipient of the advice at a time reasonably contemporaneous to the material change in information.

“(4) MAINTENANCE FOR 6 YEARS OF EVIDENCE OF COMPLIANCE.—A fiduciary adviser referred to in paragraph (1) who has provided advice referred to in such paragraph shall, for a period of not less than 6 years after the provision of the advice, maintain any records necessary for determining whether the requirements of the preceding provisions of this subsection and of subsection (b)(14) have been met. A transaction prohibited under section 406 shall not be considered to have occurred solely because the records are lost or destroyed prior to the end of the 6-year period due to circumstances beyond the control of the fiduciary adviser.

“(5) EXEMPTION FOR PLAN SPONSOR AND CERTAIN OTHER FIDUCIARIES.—

“(A) IN GENERAL.—Subject to subparagraph (B), a plan sponsor or other person who is a fiduciary (other than a fiduciary adviser) shall not be treated as failing to meet the requirements of this part solely by reason of the provision of investment advice referred to in section 3(21)(A)(ii) (or solely by reason of contracting for or otherwise arranging for the provision of the advice), if—

“(i) the advice is provided by a fiduciary adviser pursuant to an arrangement between the plan sponsor or other fiduciary and the fiduciary adviser for the provision by the fiduciary adviser of investment advice referred to in such section,

“(ii) the terms of the arrangement require compliance by the fiduciary adviser with the requirements of this subsection, and

“(iii) the terms of the arrangement include a written acknowledgment by the fiduciary adviser that the fiduciary adviser is a fiduciary of the plan with respect to the provision of the advice.

“(B) CONTINUED DUTY OF PRUDENT SELECTION OF ADVISER AND PERIODIC REVIEW.—Nothing in subparagraph (A) shall be construed to exempt a plan sponsor or other person who is a fiduciary from any requirement of this part for the prudent selection and periodic review of a fiduciary adviser with whom the plan sponsor or other person enters into an arrangement for the provision of advice referred to in section 3(21)(A)(ii). The plan sponsor or other person who is a fiduciary has no duty under this part to monitor the specific investment advice given by the fiduciary adviser to any particular recipient of the advice.

“(C) AVAILABILITY OF PLAN ASSETS FOR PAYMENT FOR ADVICE.—Nothing in this part shall be construed to preclude the use of plan assets to pay for reasonable expenses in providing investment advice referred to in section 3(21)(A)(ii).

“(6) DEFINITIONS.—For purposes of this subsection and subsection (b)(14)—

“(A) FIDUCIARY ADVISER.—The term ‘fiduciary adviser’ means, with respect to a plan, a person who is a fiduciary of the plan by reason of the provision of investment advice by the person to the plan or to a participant or beneficiary and who is—

“(i) registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) or under the laws of the State in which the fiduciary maintains its principal office and place of business,

“(ii) a bank or similar financial institution referred to in section 408(b)(4),

“(iii) an insurance company qualified to do business under the laws of a State,

“(iv) a person registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

“(v) an affiliate of a person described in any of clauses (i) through (iv), or

“(vi) an employee, agent, or registered representative of a person described in any of clauses (i) through (v) who satisfies the requirements of applicable insurance, banking,

and securities laws relating to the provision of the advice.

“(B) AFFILIATE.—The term ‘affiliate’ of another entity means an affiliated person of the entity (as defined in section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(3))).

“(C) REGISTERED REPRESENTATIVE.—The term ‘registered representative’ of another entity means a person described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) (substituting the entity for the broker or dealer referred to in such section) or a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(17)) (substituting the entity for the investment adviser referred to in such section).”.

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) EXEMPTION FROM PROHIBITED TRANSACTIONS.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemptions from tax on prohibited transactions) is amended—

(A) in paragraph (14), by striking “or” at the end;

(B) in paragraph (15), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following new paragraph:

“(16) any transaction described in subsection (f)(7)(A) in connection with the provision of investment advice described in subsection (e)(3)(B), in any case in which—

“(A) the investment of assets of the plan is subject to the direction of plan participants or beneficiaries,

“(B) the advice is provided to the plan or a participant or beneficiary of the plan by a fiduciary adviser in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of plan assets, and

“(C) the requirements of subsection (f)(7)(B) are met in connection with the provision of the advice.”

(2) ALLOWED TRANSACTIONS AND REQUIREMENTS.—Subsection (f) of such section 4975 (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

“(7) PROVISIONS RELATING TO INVESTMENT ADVICE PROVIDED BY FIDUCIARY ADVISERS.—

“(A) TRANSACTIONS ALLOWABLE IN CONNECTION WITH INVESTMENT ADVICE PROVIDED BY FIDUCIARY ADVISERS.—The transactions referred to in subsection (d)(16), in connection with the provision of investment advice by a fiduciary adviser, are the following:

“(i) the provision of the advice to the plan, participant, or beneficiary;

“(ii) the sale, acquisition, or holding of a security or other property (including any lending of money or other extension of credit associated with the sale, acquisition, or holding of a security or other property) pursuant to the advice; and

“(iii) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of the advice or in connection with a sale, acquisition, or holding of a security or other property pursuant to the advice.

“(B) REQUIREMENTS RELATING TO PROVISION OF INVESTMENT ADVICE BY FIDUCIARY ADVISERS.—The requirements of this subparagraph (referred to in subsection (d)(16)(C)) are met in connection with the provision of investment advice referred to in subsection (e)(3)(B), provided to a plan or a participant or beneficiary of a plan by a fiduciary adviser with respect to the plan in connection

with any sale, acquisition, or holding of a security or other property for purposes of investment of amounts held by the plan, if—

“(i) in the case of the initial provision of the advice with regard to the security or other property by the fiduciary adviser to the plan, participant, or beneficiary, the fiduciary adviser provides to the recipient of the advice, at a time reasonably contemporaneous with the initial provision of the advice, a written notification (which may consist of notification by means of electronic communication)—

“(I) of all fees or other compensation relating to the advice that the fiduciary adviser or any affiliate thereof is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property,

“(II) of any material affiliation or contractual relationship of the fiduciary adviser or affiliates thereof in the security or other property,

“(III) of any limitation placed on the scope of the investment advice to be provided by the fiduciary adviser with respect to any such sale, acquisition, or holding of a security or other property,

“(IV) of the types of services provided by the fiduciary adviser in connection with the provision of investment advice by the fiduciary adviser, and

“(V) that the adviser is acting as a fiduciary of the plan in connection with the provision of the advice,

“(ii) the fiduciary adviser provides appropriate disclosure, in connection with the sale, acquisition, or holding of the security or other property, in accordance with all applicable securities laws,

“(iii) the sale, acquisition, or holding occurs solely at the direction of the recipient of the advice,

“(iv) the compensation received by the fiduciary adviser and affiliates thereof in connection with the sale, acquisition, or holding of the security or other property is reasonable, and

“(v) the terms of the sale, acquisition, or holding of the security or other property are at least as favorable to the plan as an arm's length transaction would be.

“(C) STANDARDS FOR PRESENTATION OF INFORMATION.—The notification required to be provided to participants and beneficiaries under subparagraph (B)(i) shall be written in a clear and conspicuous manner and in a manner calculated to be understood by the average plan participant and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of the information required to be provided in the notification.

“(D) EXEMPTION CONDITIONED ON MAKING REQUIRED INFORMATION AVAILABLE ANNUALLY, ON REQUEST, AND IN THE EVENT OF MATERIAL CHANGE.—The requirements of subparagraph (B)(i) shall be deemed not to have been met in connection with the initial or any subsequent provision of advice described in subparagraph (B) to the plan, participant, or beneficiary if, at any time during the provision of advisory services to the plan, participant, or beneficiary, the fiduciary adviser fails to maintain the information described in subclauses (I) through (IV) of subparagraph (B)(i) in currently accurate form and in the manner required by subparagraph (C), or fails—

“(i) to provide, without charge, such currently accurate information to the recipient of the advice no less than annually,

“(ii) to make such currently accurate information available, upon request and without charge, to the recipient of the advice, or

“(iii) in the event of a material change to the information described in subclauses (I) through (IV) of subparagraph (B)(i), to provide, without charge, such currently accurate information to the recipient of the advice at a time reasonably contemporaneous to the material change in information.

“(E) MAINTENANCE FOR 6 YEARS OF EVIDENCE OF COMPLIANCE.—A fiduciary adviser referred to in subparagraph (B) who has provided advice referred to in such subparagraph shall, for a period of not less than 6 years after the provision of the advice, maintain any records necessary for determining whether the requirements of the preceding provisions of this paragraph and of subsection (d)(16) have been met. A transaction prohibited under subsection (c)(1) shall not be considered to have occurred solely because the records are lost or destroyed prior to the end of the 6-year period due to circumstances beyond the control of the fiduciary adviser.

“(F) EXEMPTION FOR PLAN SPONSOR AND CERTAIN OTHER FIDUCIARIES.—A plan sponsor or other person who is a fiduciary (other than a fiduciary adviser) shall not be treated as failing to meet the requirements of this section solely by reason of the provision of investment advice referred to in subsection (e)(3)(B) (or solely by reason of contracting for or otherwise arranging for the provision of the advice), if—

“(i) the advice is provided by a fiduciary adviser pursuant to an arrangement between the plan sponsor or other fiduciary and the fiduciary adviser for the provision by the fiduciary adviser of investment advice referred to in such section,

“(ii) the terms of the arrangement require compliance by the fiduciary adviser with the requirements of this paragraph,

“(iii) the terms of the arrangement include a written acknowledgment by the fiduciary adviser that the fiduciary adviser is a fiduciary of the plan with respect to the provision of the advice, and

“(iv) the requirements of part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 are met in connection with the provision of such advice.

“(G) DEFINITIONS.—For purposes of this paragraph and subsection (d)(16)—

“(i) FIDUCIARY ADVISER.—The term ‘fiduciary adviser’ means, with respect to a plan, a person who is a fiduciary of the plan by reason of the provision of investment advice by the person to the plan or to a participant or beneficiary and who is—

“(I) registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) or under the laws of the State in which the fiduciary maintains its principal office and place of business,

“(II) a bank or similar financial institution referred to in subsection (d)(4),

“(III) an insurance company qualified to do business under the laws of a State,

“(IV) a person registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

“(V) an affiliate of a person described in any of subclauses (I) through (IV), or

“(VI) an employee, agent, or registered representative of a person described in any of subclauses (I) through (V) who satisfies the requirements of applicable insurance, banking, and securities laws relating to the provision of the advice.

“(ii) AFFILIATE.—The term ‘affiliate’ of another entity means an affiliated person of the entity (as defined in section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(3))).

“(iii) REGISTERED REPRESENTATIVE.—The term ‘registered representative’ of another entity means a person described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) (substituting the

entity for the broker or dealer referred to in such section) or a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(17)) (substituting the entity for the investment adviser referred to in such section).’

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to advice referred to in section 3(21)(A)(ii) of the Employee Retirement Income Security Act of 1974 or section 4975(e)(3)(B) of the Internal Revenue Code of 1986 provided on or after January 1, 2002.

The SPEAKER pro tempore. After debate on the bill, as amended, it shall be in order to consider a further amendment printed in part B of the report, if offered by the gentleman from California (Mr. GEORGE MILLER), or his designee, which shall be considered read, and shall be debatable for 60 minutes, equally divided and controlled by the proponent and an opponent.

The gentleman from Ohio (Mr. BOEHNER) and the gentleman from New Jersey (Mr. ANDREWS) each will control 30 minutes of debate on the bill, and the gentleman from California (Mr. THOMAS) and the gentleman from Washington (Mr. MCDERMOTT) each will control 20 minutes of debate on the bill.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on H.R. 2269.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

My colleagues, this week we found that for the first time in our Nation's history, more than half of all American families have invested in the stock market. I think that is enormously significant. For years, certainly when I was growing up, we thought of the stock market as something only the wealthy cared about. And for the most part, it was. As late as 1982, fewer than 15 percent of all American households held stocks, bonds, or mutual funds. Right now, the number is 52 percent. Today, the working class and the investor class are one and the same.

It is these new entrants into the investment markets that H.R. 2269, the Retirement Security Advice Act, is meant to help. We have seen an explosion in the number of 401(k) plans and IRAs, defined contribution plans in which the employee decides how much to invest and how to invest. As we see from this chart next to us, more than 48 million Americans participate in defined contribution plans today. These plans offer great opportunities for investors, but they also pose many risks. The best way to maximize opportunities and to minimize risk is to have access to high-quality investment advice.

But access to advice has not kept pace with participation in these defined contribution plans. Every day, workers who are trying to figure out how to best invest their money go to their employers and ask for guidance. Sadly, current law cripples employers who want to provide it.

So, how did we get to this point? The 1974 Employee Retirement Income Security Act, enacted long before the advent of 401(k)s and other defined contribution plans, continues to needlessly deny many employers the opportunity to provide their workers with investment advice benefits that could help them enhance their retirement savings.

We have heard from employers that they want to provide this service as a benefit to help retain skilled workers. We have heard from workers that they want quality advisers to guide investment decisions. The authors of ERISA never intended for millions of individuals to have to become investment experts. To illustrate this point, we have the chart next to me. Betty Shepard, the Human Resources administrator at Mohawk Industries Carpet Company in Kennesaw, Georgia, testified before our committee that, and I will quote "Without this bill, I fear that many of our employees may overreact to market fluctuations and listen to the commentary of family, friends or the media to make retirement planning decisions."

We know from survey after survey that a large majority of employees do not have access to quality investment guidance. In fact, as we see from this chart, only 16 percent of 401(k) participants have investment advice options available through their retirement plan, according to the Spectrum Group.

It is this investment advice gap that H.R. 2269 seeks to close, and it does it in several ways. First, it streamlines the employer's duty in selecting and monitoring investment advisers. Employers will not be responsible for every piece of advice or every transaction, but when general problems arise, they must respond to them. Employers tell us this will give them the clear guidance they need to offer quality investment advice to their employees as a benefit. The following chart summarizes how this bill changes current law.

Second, the bill maximizes competition in the investment advice market by allowing many of the most highly regarded investment firms to offer investment advice through employers. It will also protect workers by clearly requiring advisers to act at all times in the workers' best interest, and, if they have any possible conflicts of interest, to disclose them early and clearly.

If they breach that fiduciary duty, they will be subject to civil litigation and even criminal prosecution by the Labor Department. The Department of Labor, which has the responsibility for protecting workers, tells us that this structure gives it all the authority necessary to protect workers from abuses.

But competition is the best consumer protection available, and our bill creates a competitive marketplace that would be flexible and dynamic enough to respond to worker needs.

I think everyone in this House shares the same ultimate goal of providing quality investment advice to workers who critically need it, and I urge Members today to support this bill. Employers, workers, both the Commerce and Treasury Secretaries, and the Nation's chief pension law enforcement official all support this commonsense measure. It takes a balanced approach for increasing worker access to advice while including safeguards to protect their investments without discouraging employers from offering any advice at all.

I want to thank my colleague, the gentleman from Texas (Mr. SAM JOHNSON), who, as a Member of the Committee on Ways and Means and also as chairman of our Subcommittee on Employer-Employee Relations, has been instrumental in moving this bill through the two committees; and I want to thank him for the vital role he has played in this process.

Mr. Speaker, we must ensure that the American dream is within the grasp of all of our Nation's workers, not just a select few. Access to quality investment advice is one way we can help rank-and-file workers maximize their retirement security.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. Without objection, the time originally allotted to the gentleman from California (Mr. THOMAS) will be controlled by the gentleman from Texas (Mr. SAM JOHNSON).

There was no objection.

Mr. ANDREWS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to the bill; and later in the debate the gentleman from New York (Mr. RANGEL), the ranking member of the Committee on Ways and Means, and myself will offer a substitute which we believe is a more positive alternative.

I want to proceed by agreeing with the gentleman from Ohio (Mr. BOEHNER), the chairman, and my friend, the gentleman from Texas (Mr. SAM JOHNSON), the subcommittee chairman, that there is a serious problem that requires a remedy, and that problem is the fact that there are millions of Americans, a majority of Americans, who now hold interest in the equity markets, in the stock markets, and that many of these Americans do not receive adequate advice as to the options and strategies they should follow in investing their money.

There are too many people who get their investment advice from a neighbor, over the back yard fence, or through hearsay at an office gathering, or what have you, and we all agree that that is a situation that we want to change.

I also want to say that Chairman BOEHNER and Chairman JOHNSON have been open and fair throughout this

process, and I hope that we are able to continue working together as the legislation advances to the other body so that we may reach a mutually agreeable solution, and I thank the chairman for his openness and fairness throughout this process.

We think that this bill is the wrong way to give investment advice because we think it is flawed in four essential ways:

First of all, it is important to understand that this bill will make it possible for a person to receive investment advice about their pension assets, perhaps along with their home the most important assets a person owns, from someone who has a vested interest in that decision, in addition to or other than the interest of the pension. In other words, an employee of an insurance company or a bank or a financial services company can give advice to a pensioner that would result in that pensioner putting valuable pension assets into a fund where the advisor would do better or where the advisor would profit from the result of that decision. That is an important conflict of interest that we think is a very serious and troubling one.

The bill does not properly reconcile that conflict of interest in four important ways:

First of all, its disclosure provisions do not adequately or contemporaneously disclose to the investor what the risks are. If there is to be such advice given, we believe, Mr. Speaker, that the person receiving the advice should know with great clarity exactly what the nature of a potential conflict is at the time he or she is making the decision. It is not good enough to receive that disclosure months or even years before one makes the decision. It is not good enough that that disclosure be confusing, presented in the verbiage of financial planning professionals and not the commonsense language most of us would be able to understand. Because the bill does not provide for adequate disclosure of potential or real conflicts by investment advisers, it is flawed.

Secondly, the bill does not provide for adequate qualifications of the investment advisers. If someone is going to be giving investment advice to American pensioners and American workers, that someone ought to be trained and qualified and accountable. There is a serious loophole in the underlying bill with respect to that training and qualification. Where there are cases where employees of large banks, large insurance companies, large financial services companies do not have that kind of adequate training, as we read the bill, they would still be able to give such advice. We believe that only people who are duly licensed and trained and qualified should be giving such advice.

The third major flaw of this bill is it does not take adequate measures to make the investor aware that there are alternatives, in many cases better alternatives to receiving advice other

than receiving advice from a conflicted advisor; that there is someone else to whom the pensioner could turn, someone else to whom the employee could turn who has no stake in the outcome of his or her decision, who has no conflict of interest. We believe that if conflicted advice is to be given at all, it should only be given where there is a clear disclosure of the available option of an independent advisor for that worker or retiree, so that the person receiving the advice knows that there is someone to whom she or he can turn who has no stake whatsoever in the outcome to have the decision other than the best interests of the investor.

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Finally, this bill is significantly flawed because it does not provide adequate remedies if someone receives advice that is wrong and that is a breach of fiduciary duties. The bill recognizes the fact that the fiduciary relationship between the adviser and the investor continues under this bill.

But what happens if the advisor breaches that duty. Well, the bill would permit present law to continue, and present law permits the recovery of the lost investment; it does not permit the recovery of damages for the consequences of that lost investment. As a practical reality that means that a person who gets bad advice that is a breach of the fiduciary duty of the advisor will never get his or her claim to a court of competent jurisdiction and will never be made whole again. Once the horse has left the barn, it cannot be returned because the remedies are not sufficient under this bill.

Mr. Speaker, for these four reasons we think that this bill is flawed. That is why our position in opposing this is supported by the voice of working people in this country, the AFL-CIO and the American Association of Retired Persons.

Finally, I would recognize that the gentleman from Ohio (Mr. BOEHNER) made reference to Ms. Shepard who is the human resources administrator at Mohawk Industries. I would like to read for the RECORD some remarks she made in the October 21, 2001 issue of the New York Times. At the appropriate time I will submit the entire article for inclusion in the RECORD.

"Betty Shepard, human resources administrator at Mohawk Industries, said it had not offered advice because rules and liability were unclear," for the employer. That is my insertion. "We want to give employees a way to get easy access to reliable investment advice within the confines of the law." Ms. Shepard, who testified before Congress last summer in favor of the bill said she "would prefer hiring an impartial advisor to assist employees." Well, so would we.

We believe that the four reasons that I have outlined today that are weaknesses in this bill justify a vote against the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, the process is entirely voluntary for the employees. The workers have full control over their investment decisions, not the investment advisor. H.R. 2269 does not require any employer to contract with an investment advisor, and no employee is under any obligation to accept or follow any of the advice.

Furthermore, it requires financial service providers to fully disclose their fees and any potential conflict because investment advice may be offered only by fiduciary advisers, qualified entities that are already fully regulated under other Federal and State laws. The courts have consistently held that fiduciary duty is the highest form of financial responsibility to which an investment advisor can be held under the law.

This bill authorizes, contrary to what the gentleman tried to imply, the individual participant and the Department of Labor can seek both criminal and civil penalties for infractions of such fiduciary duty. Comprehensive disclosure will inform participants of any financial interest advisors may have, the nature of the advisor's affiliation, if any, and any limits that may be placed on the advisor's ability.

Mr. Speaker, it is a privilege to serve as the chairman of the Subcommittee on Employer-Employee Relations under the wing of the gentleman from Ohio (Mr. BOEHNER), and I am also the only Member of the House on both committees. I am pleased to report that both committees have passed this bill, and it was passed with bipartisan support. Now, more than ever, economic security goes hand in hand with retirement security. People are concerned when they watch their nest egg dwindle.

Russell Morgan, a defined contribution consultant at Watson Wyatt Worldwide in Dallas, a management consulting firm, said "Employees are having a tough time doing it on their own. For those who choose poorly, retirement may not be an option." That is just plain wrong.

It is obvious that people need investment advice and they need it now. This bill does just that. This measure removes the obstacles for employers to provide millions of workers access to professional investment advice.

The bill requires financial service providers to fully disclose their fees and any potential conflicts, as I said before. This bill protects people from fly-by-night groups or people trying to make a quick buck. There are a number of safeguards.

One, under this bill, sound investment advice can only be offered by fiduciary advisers, qualified entities that are already fully regulated under other Federal and State laws. Courts have consistently held that fiduciary duty is the highest form of financial responsibility to which an investment advisor can be held under the law.

Two, this bill authorizes the individual plan participant and the Department of Labor to seek both criminal and civil penalties for infractions of fiduciary duty.

Three, comprehensive disclosure will inform participants of any financial interest, outside interest, that advisors may have. The nature of the advisor's affiliation, if any, with the available investment options, and any limits that may be placed on the advisor's ability to provide advice, these types of disclosure obligations, along with fiduciary duties, have worked well in regulating the conduct of advisors under Federal security laws for more than 60 years in protecting innocent people from scams and fraud.

Both committees have worked hard to take a balanced approach to increasing access to advice while including safeguards to protect employers and employees.

Without this bill, employees will continue to fend for themselves in today's roller-coaster market when it comes to planning their retirement. Help people who want to help themselves and vote for this bill. It is the right thing to do.

Mr. Speaker, I reserve the balance of my time.

Mr. McDERMOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2269 is a bill that is sort of sitting out here, and there does not seem to be much interest. There are not many people over here, but this is a very important bill. American industry has moved away from fixed benefit pension systems and given people 401(k)s. People on this floor, we have 401(k)s, those of us who came after a certain date. We do not have a fixed benefit for all of our money. We have to put it in the stock market and see what happens.

In 1974, we set up a restriction that the advice investors got had to come from somebody that was disinterested. In the last few years, the stock market has gone crazy and everybody has been watching their 401(k) go up, up, up. Somebody must have gotten the idea that they were left out of the process, so they came with this piece of legislation.

This legislation eliminates workers' protections. All of us want our workers to have people give them some advice, but we also know something about human nature. Human nature says if I am going to recommend something that is in my interest or something that is not in my interest, but might be good for workers, I have a tension. I have a conflict whether I recommend investors buy my product or whether investors buy the product over here that might be better for them.

Members know everybody is not above slanting things. Everybody wants an advantage, as long it comes to them. What the present law does is prevent somebody who is offering a product from benefiting from it. What this piece of legislation does is say, we

are going to let anybody give advice, no criteria whatsoever for what they know about, financial instruments or anything else. They can recommend, if they work in the trust department of a bank, they can make a recommendation; and the American workers are putting their pension, a substantial portion of what their future pension is, in the hands of people who have a vested interest in directing them in a particular direction.

Mr. Speaker, that, in my view, is not responsible on the part of Congress. I do not think we should be doing this. We have an alternative which the gentleman from New York (Mr. RANGEL) and the gentleman from New Jersey (Mr. ANDREWS) will put forward that corrects this.

Members say included in this there is disclosure. I do not know how many Members in this Congress can honestly say that they have ever read any contract they have been involved in, such as a life insurance policy, automobile insurance policy, a policy related to homeowners insurance and whatever information that is given about investments.

Do Members read all of the way down that Charlie Brown, who is making the investment offerings or giving advice, also makes 3 percent on everything that is bought from XYZ Company? How many Members see that? Would it be the requirement that the person making the advice say, I want to bring investor's attention to page 3, line 1, that says I am going to make money off this if I recommend XYZ Company. There is nothing like that in this bill.

My belief is that this is a bad piece of legislation; if we do not adopt the Rangel-Andrews amendment or the alternative, we will be doing a disservice to the American people.

I do not know how many Members have been getting advice on their 401(k)s in this place, but I bet there are not very many Members who have made much money in the last little while. Probably they would have been smarter to get out of stocks and into government securities. Who was telling us that? Nobody.

That is what we are saying to the workers out there. Workers are going to have somebody who is running a company who says buy the stock in our company, put that in your 401(k). Of course, if the company goes belly up or whatever, we do some financial shenanigans like Enron has done and the investor gets clobbered, too bad. The investor has Enron stock, right, while the guys at the top are doing all kinds of things that are getting them in trouble with the Securities and Exchange Commission.

I think the advice should come from somebody who does not have a vested interest. I think we should all vote against this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BOEHNER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. CULBERSON).

Mr. CULBERSON. Mr. Speaker, the Members of this Congress have many reasons to support this legislation, and again I believe it illustrates a fundamental difference between the Republican and Democrat philosophy. We trust people to manage their own money and their lives with intelligence. Nearly 42 million Americans have saved about \$1.7 trillion in 401(k) plans, and under current law those people must either hire their own investment advisor, rely on an employer-sponsored advisor, or make investment decisions on their own; whereas this legislation, the Retirement Security Advice Act, will give workers access to professional investment advice from the administrators of their own plan for the first time, as long as those advisors make a full disclosure concerning any potential conflict.

The bill also protects employees by holding the financial advisor, not the employer, personally liable and subject to other criminal penalties if they act on behalf of any interest other than that of the investment portfolio or those who contribute to it.

□ 1130

Finally, Mr. Speaker, the best part of this legislation is that it is completely voluntary. The bill strengthens retirement security and gives workers access to expert investment advice when they need it. I urge my colleagues to join me in supporting it.

Mr. ANDREWS. Mr. Speaker, I yield myself 20 seconds. I would simply say that it is of very little comfort to a pensioner who has just lost everything in their 401(k) that the Department of Labor may someday institute some civil proceeding. People need to get their money back, and under this bill they do not.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. GEORGE MILLER), the ranking member of our full committee.

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentleman from New Jersey for yielding time and I rise in opposition to this legislation.

It has been said time and again, and we all agree, that pension plan participants need to get additional advice on the investment of their moneys. We have made the point that for the new generation of workers, these pension plans, the 401(k) plans, are going to become an ever more important part of their future retirement and that we must take care with the investment of those funds by these employees to make sure that in fact that will be there when they decide to retire.

We also know that these funds, unlike their Social Security retirement, are subject to the ups and downs of the market. It will be important how they make these investment decisions because the timing of when they retire may not necessarily coincide with the good cycle in the market, as many people have found out over the last 2 years. We now hear more and more of

our constituents telling us because of the loss of the markets, because of the placement of their investments, they are going to have to work a couple of more years, they are not going to be able to retire like they thought, or one of the wage earners in the family is going to have to continue to work. So these funds are subject to the volatility of the market, but that is understood. And it is also understood that we believe that over the long run people will be better off with the investment of these funds in their 401(k)s.

The question then comes, the question of the type of advice that they can be given by their employer. We know that there were many, many employers over the last many years that basically made a decision that the 401(k) funds if they were a publicly held corporation would be invested in the stock of that corporation. Obviously in many, many instances the workers in that corporation lost much of their investment, some of them did very well; but the concentration of the money in those funds, the failure to diversify that investment in many instances harmed the employees; and now we require that they be given other alternatives, that they be given other options so that they too can diversify their portfolio and they are not locked into a single stock.

But the question now that arises in this legislation when we give them the option of that advice, do we give them the right to have an independent review of their account, an independent advisor who is in the business of advising, not necessarily in the business of advising and also managing stocks and portfolios for this client and for other clients?

I think it is just basic and fundamental about treating workers with a set of rights about the dominion over their funds. The notion that somehow this changes the expense of it and is not worthwhile, this advice given to a group of participants is not that expensive but it may be terribly, terribly expensive to the employee if they do not get advice that is not conflicted.

We have great brand names. We have Lehman Brothers, we have Merrill Lynch, we have Charles Schwab. We have houses that now are not just any longer investment banks, they are not just any longer stock brokerages. They run the gamut. They are wholly owned subsidiaries of Citicorp, or in fact they own other subsidiaries; and what we have are very complicated financial arrangements.

In many instances, we have seen over the last couple of years, and especially in the downturn in the market, that a number of these companies hold on to advice long beyond the time when the prudent ordinary person would decide to sell that stock. It has become a standing joke now. I think they even have theme music on CNBC in the morning for those advisors who will not give up their recommendation to buy stocks even though the stock now

has been down for 7 or 8 months in a row; it has lost 70 to 90 percent of its value, and they are still telling them to be in there. Lo and behold, when you start to look at some of this, as the stock exchanges have, you find out that they hold a position or they are managing the money for the executives of the company, not necessarily do they hold a position in that company, but they hold another position with the executives in managing their portfolios. They do not want to upset them, so they are telling the old American public, "Buy this stock. We're on our way back." The fact of the matter is people have been torched. That is subject to disciplinary actions again.

But in this legislation, that conflicted advice necessarily is not out of order here because they have a system of disclosure, and that disclosure is given once a year and then you are on your way. What you find out is the way the bill is written, under the law, that the fiduciary relationship that we keep talking about does not really exist because the law is set up that the person whose funds it is, the employee, has to make a decision, buy this stock, make this investment, put it in this fund. Once they do that act, they relieve the advisor under the law of all responsibility.

Obviously, they should be making the decisions; but the way this legislation is written, once they do that, they have cleared the decks in terms of liability under any sense of fiduciary relationships under the law, because as we see under section 404 of the ERISA law: "No person who is otherwise a fiduciary shall be liable under this part for any loss, or by reason of any breach, which results from such participant's, or beneficiary's exercise of control." Then you go to the law, and the law says the beneficiary must exercise control. At that point we are home free.

I just think that we have to understand now that the change in the marketplace, the interlocking relationship between a whole range of financial services, a whole range of financial entities requires that in fact we have the means by which the employee can get independent advice to make their decision on. I do not believe that this legislation as it is currently configured does that. That is why I would hope that Members would support the Andrews-Rangel substitute, which I think is a very reasonable compromise. It provides for minimum advisor qualifications. Imagine that, having somebody who is in fact qualified to make this determination advising the individual.

How about having meaningful disclosure? We just passed here legislation where we told the banks that they had to disclose what they are going to do with your financial data. What we found out is people got in the mail, sometimes they got two or three pages, sometimes they got one page, they got little tiny print; and the Congress is running around saying to the banks,

Gee, that's not the disclosure we intended. It was the disclosure the banks intended. That is why they sent it out. Most people did not recognize it when they got it. But it satisfied disclosure. So we thought you ought to have meaningful disclosure in this case since you are playing with people's future retirements. We also think you ought to have meaningful recourse when you get bad advice, when you get the wrong advice. Of course, this legislation as it is currently written does not really provide for that.

But most importantly, what we believe you ought to have is an employee who is trying to make these decisions, decisions that they must make today that can impact their livelihood 20 and 30, 40 years down the road, that they ought to have some access to independent advice through their employer so that they can in fact make that decision.

So I would hope that we would support the substitute by the gentleman from New Jersey (Mr. ANDREWS) and the gentleman from New York (Mr. Rangel); and then I think we would have a workable piece of legislation that would do what we all recognize must be done in terms of giving employees greater options about the investment and more information about how to invest their money, but to make sure that that is offered in a fair and open manner to the employees.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. FOLEY), a distinguished member of the Committee on Ways and Means.

Mr. FOLEY. Mr. Speaker, I thank the gentleman from Texas (Mr. SAM JOHNSON) and the gentleman from Ohio (Mr. BOEHNER) for their leadership on this issue.

In this bill there are adequate disclosure requirements. This is a good bill. I have heard some interesting debate today about whether the person should have an investment in the firm or not; should they be strictly giving advice. There are two schools of thought to that. I particularly like somebody whose money is riding along with mine investing in the market. If they are willing to put in their equity, I am a little comforted by the fact that maybe they are interested in the risk/reward.

I remember in Palm Beach County, we had a bank that sold a preferred note and on the front of the note, it was an 11 percent coupon. But huge disclosure: "This is a risky investment. This is not FDIC insured."

What happened was the consumer, the constituent, decided because of greed that they were willing to gamble on that. Of course when the bank went bankrupt and they lost their money, they started blaming the advisor, the person who sold them the bill. But on every document it was very emphatic, that this was risk based, highly speculative, no guarantees; and everybody then looks to the little print and says, Oh, boy, I didn't really read that. Well, you could not miss it.

This legislation updates important remedies for those who invest. I have a 401(k) here in Congress and they send me advice and they tell me that over the last several years government funds have done such, 401(k) or equities has done such. It is my decision to make whether I invest in equity bonds or other fixed incomes. I can choose the more speculative route of equities. They make it clear that that is risk based. That advice is mine for the taking. If I do not want to use it and want to test the fates and roll it all in my equity portfolio, I have the right to do that. In this bill, every American has that right.

This bill, or the base text prior to this bill, has not been updated since 1974. That is like asking people in this Chamber to drive a 1974 automobile. This provides a great balance between the ability of those savers, those consumers, to increase their retirement funds through prudent investment. It is specific. The solutions, the benefits and the problems listed in the Retirement Security Advice Act should allay any fears.

Let me underscore. Today, 42 million workers invest more than \$2 trillion of assets in a 401(k). This legislation would update these rules to reflect this new pension environment. In addition, the bill would encourage employers to offer investment advisory services by clarifying liability rules that currently discourage employees from hiring employee investment advisors.

It is a balanced, fair, fundamentally sound way for consumers to ready their portfolios for retirement. I encourage the House adoption of this important measure and thank the respective chairmen for their leadership on the issue.

Mr. McDERMOTT. Mr. Speaker, I yield 4 minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. I thank the gentleman for yielding time.

Mr. Speaker, I think the biggest problem today for plan participants of 401(k)s is that they have been given responsibility for the investment of their retirement funds without being given access to information to help them make informed decisions as they deal with something as important as trying to find optimal earnings on their retirement savings.

I think many of us in puzzling with our Thrift Savings Plan options think, This is hard, this is confusing, I don't quite know if I am doing this in the right way. I will tell my colleagues, looking at my returns from the last little while, I am quite sure I am not doing it the right way. I could use more advice. An awful lot of people in the workforce today are thinking exactly the same thing. And so we need a strategy to get them more advice. I think the chairman's strategy represents a very excellent and constructive way of approaching it. The chairman and I are in strong agreement that as we try and get more advice to plan

participants, we do not want to put people at risk of heavy sales practices that might be against their interest and have them investing in funds that are inappropriate for their situations.

Therefore, if we have the following standards in a new investment advice regimen advanced by this legislation, I think you can actually get more advice and still protect the employee's interest. You need to have the fiduciary standard apply so that the advisor must be providing advice solely for the interest of the plan participant or the employee. You have got to have some type of administrative recourse so that if the individual violates that advice, you can withdraw that individual's license. You can take away their employment. You can put them out of business.

I used to be an insurance regulator. There is not a better policing mechanism than being able to put the guy out of business to make certain that they are providing advice that is appropriate and comports with the legal requirements.

Thirdly, you need to have fee disclosure. These things have cost loads. Increasingly, employers have shifted all of the expense to the employees on the loads of 401(k)s. Employees need to know what it is going to cost them as they look at these different options. Having a disclosure plan and in fact having a uniform disclosure format of fees is going to help the individual make sure they know what they are getting into as they make various investment options. And so with this legislation, subject to some further amendment, we are able actually to achieve the goal of getting more investment advice out there and helping people with their choices.

I do not think that the opponents of this legislation have reflected enough upon the disservice we do to those in the workforce by giving them the responsibility of investing their own money but depriving them of the information to do it. Defined contribution plans presently represent 90 percent of all retirement savings plans in the workforce. There are \$1.5 trillion worth of investment in 401(k) plans. But still we have less than a quarter of employer-sponsored defined contribution plans provide for advice to the workers in terms of how to invest within those plans.

I have held a number of round tables across North Dakota visiting with employees, visiting with employers, about how we can do a better job with facilitating retirement savings in this country. Information in terms of how to best handle their retirement money is a constant theme raised not by the big bad industry that some on this side of the aisle would talk about, but by employees themselves or by employers reflecting what employees are asking for. We can do a better job, and this legislation will do it.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume,

and I yield to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. I thank the gentleman for yielding.

Mr. Speaker, defined contribution plans which place the burden of investment decisions on workers will be the primary source of retirement income for an increasing number of workers. Unfortunately, these workers have little access to professional investment advice which could help them grow their retirement savings in a prudent manner. Current law restricts many sources of advice to workers. We must get additional advice to participants. I salute the gentleman from Ohio for his earnest efforts in trying to achieve this goal.

This bill goes a long way in giving workers access to professional investment advice. In addition, it provides two important features that will help insulate workers from advisors who may otherwise pose a conflict of interest, a fiduciary duty owed to the worker and a disclosure of all fees and conflicts. We agree that the fiduciary duty of an advisor is a high standard not to be taken lightly and that any advisor breaching this duty should not be able to continue to give advice. We also agree that the bill's disclosure requirements will give workers a clear picture of what fees would impact their accounts and what conflicts the advisor has with any offered recommendation. However, this bill, with a few modifications, can provide further protections to workers without burdening financial institutions. I am glad that we have been able to reach an agreement in regard to these modifications.

Unfortunately, we are considering this bill under a modified closed rule and cannot make these modifications on the floor today. These modifications would require the disclosure of the availability of independent advice providers and require the Secretary to draft model disclosure forms for fees. The disclosure would remind participants that independent advice can be sought outside of the plan context and the model disclosure forms will assist service providers in complying with the disclosure requirements. Furthermore, these models will ensure uniformity among the disclosures to the reasonable understanding of the average plan participant.

Lastly, we have agreed to provide further clarity in this bill with regard to banks by restricting the provision of investment advice to their trust departments. It is my belief that every advisor giving advice under this bill should be individually licensed by a Federal or State regulatory agency so that when an advisor breaches his fiduciary duty to a participant, the regulator will have the authority to put the bad actor out of business.

However, I understand that banks operate under a special regulatory scheme in which some investment advisors are not individually licensed but work within their bank's trust depart-

ment. I am satisfied that these investment advisors working within trust departments under an umbrella trust license can be subject to the same administrative sanctions as registered investment advisors, insurance agents and broker dealers under this bill.

Therefore, with these three modifications, we can provide further protections to workers without burdening financial institutions. As this bill moves through the legislative process, I ask for the chairman's support to make these modifications.

Mr. BOEHNER. Mr. Speaker, in reclaiming my time, I want to thank the gentleman from New Jersey (Mr. ANDREWS), who has worked on this bill with me over the last several years. Although we may be in some slight disagreement today over how much protection is available in this bill, he has been a faithful partner as we have tried to reach some accord. The gentleman from North Dakota and I have also been working together to try to bring the protections in this bill into a proper balance. I want to thank him for bringing these pertinent modifications to my attention.

I support the changes that the gentleman has described which will further protect workers' retirement income security. I support the creation of a model disclosure form as well as a requirement for advisors to disclose to plan participants that independent advice is available. In addition, I support the gentleman's proposed changes to the qualification section which would ensure that only licensed individuals provide this advice; or in the case of banks, such advice be provided by trust or custody department employees who are individually accountable to State or Federal regulators.

During conference negotiations with the Senate, I will work with my colleague from North Dakota and others to make these modifications for the further protection of workers managing their retirement income assets.

Mr. POMEROY. I thank the gentleman.

Mr. ANDREWS. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from California (Ms. SANCHEZ).

Ms. SANCHEZ. Mr. Speaker, many Americans have little knowledge about investing their own money. Mutual funds, stocks and bonds are very complicated instruments to which people pay little attention, especially when they have got other things to do all day long.

□ 1145

I know firsthand how complex these instruments can be because of my professional experience as an investment advisor.

In concept, the Retirement Security Advice Act is a great idea. We must find ways to ensure that all Americans participating in retirement savings plans are making decisions that will help them in the long run. All Americans should have access to licensed investment professionals who can advise

them on what they should be investing in, how risky their portfolio should be and when to change plans.

There is a major weakness in the current version of the bill, however. The bill allows registered, licensed banks or similar financial institutions to provide financial investment advice. The problem is that the language is not strong enough. It allows bank tellers or any unrelated subsidiary of these financial institutions to provide this advice.

Would you want investment advice from a bank teller? How about from a member of the cleanup crew at an investment banking firm? These examples may be extreme, but they are possible under the current language in this bill.

I want to make sure that all Americans are provided with the best opportunity to invest their retirement savings. Think of the time period we just went through right now. I have a father-in-law who is a banker, and he has plenty of people who would call him and say, "I just went to a cocktail party, and why am I not getting 38 percent return this year?" And no matter how much he tried to talk them through about their plan and their situation, they would basically say, "I am taking my funds to somebody else who will put me in these types of investments."

Now, my father-in-law has licenses. He has been in the investment banking world a long time. He has character, he has integrity. He also makes his living with that license. He protects it. And he would say, "Well, if that is what you have to do, that is what you are going to do, but I will not put you in those types of investments."

Imagine if you have someone who has no license and the pressure comes on. What do you do then? Well, you end up being in things you really should not be in.

Sometimes we forget about the people that we are really working to assist here. This bill is targeted at those who could not otherwise afford investment advice. They are working-class Americans who teach our children, build our infrastructure and make this country strong.

You probably would not take gourmet cooking advice from the fry cook at McDonald's, so why should people take investment advice from those who may not be qualified to give it?

Let us do the right thing for all Americans. Let us make sure that this advice is given by licensed individuals. There are plenty of different types of licenses. We do not have to start a new regulatory situation here.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. PORTMAN), who is a member of the Committee on Ways and Means and who has a long history of working on retirement issues.

Mr. PORTMAN. Mr. Speaker, I thank the chairman very much for yielding

me time, and I congratulate him as a Member of the Committee on Ways and Means, but also as the chairman of the Subcommittee on Social Security that got this legislation to the floor today. He wears two hats, and he has done a great job in moving what is a needed piece of legislation to the floor.

Also, of course, I want to commend my colleague, the gentleman from Ohio (Mr. BOEHNER), who has spent years on this issue, understanding that there is a need to change the ERISA laws, which are way out of date.

As more and more people have moved into the defined contribution plans, the 401(k)s, the 403(b)s and the 457s, 90 percent of folks now are in these defined contribution plans. The law has not changed to allow them to get the type of advice they need. Only 16 percent of workers out there in these plans are getting any advice, only 16 percent, yet 75 percent of them say in surveys, they are desperate to get that kind of advice.

So this is a very important change in the law that has to be made in order to allow people, those school teachers, those folks who are in retirement plans all over this country who need this kind of advice, to be able to make better decisions.

Recently this Congress took the lead on retirement security by passing legislation that dramatically expands the availability of defined contribution and defined benefit options. We allowed everybody to put more money away in their 401(k), for instance. We simplified all the rules and regulations for all of the pension plans, to help small businesses to get into this area.

We also allowed portability, to be able to move your plan from job to job and to be able to integrate those plans in a seamless way into one account. This is extremely important, and we think it will allow for millions, millions more Americans, to have the kind of retirement security they need and to have the kind of peace of mind in retirement that all of us deserve.

That was passed overwhelmingly by this House, and it is great legislation. The gentleman from Maryland (Mr. CARDIN) and I worked on that for years together.

But now we need to take the next big step, which is education. It is providing people with the means to understand the importance of retirement savings, first, on a broad sense, but also to understand what their options are in terms of what they can invest in if they are indeed going to be among those who benefit from this expansion that this Congress has pushed forward to get people into 401(k)s, 403(b)s, defined benefit plans and so on.

So this is the next logical step, and I commend the chairman and the gentleman from Ohio (Mr. BOEHNER) for moving this forward, and the gentleman from California (Chairman THOMAS) for getting it to the floor today.

Now, we have heard some discussion here about what some people see as

some of the deficiencies in this legislation. I would just remind people, read the legislation. If you are going to offer this advice, you have to be licensed or have to be a bank trust officer. That is in the legislation.

The gentleman from North Dakota (Mr. POMEROY), who is going to support the bill on the floor today, who worked very hard on this legislation over the years and also helped us with all the portability provisions in the Portman-Cardin bill, has just indicated he is going to support it because the chairman has agreed to even some other slight modifications to ensure that you do not have the conflicts of interest that would otherwise occur if you did not have that fiduciary duty, to be sure that people who do offer this advice are qualified, and, finally, to be sure you have the kind of disclosure that is necessary.

This legislation increases that disclosure. As it has gone through the process in the Committee on Ways and Means, we were sure that there would be yearly disclosure, disclosure upon request, and disclosure if there is a material change.

Again, this legislation is sorely needed. We wanted to encourage people to save more for retirement. One of the impediments now is the lack of good advice and the lack of good education.

So I commend those on both sides of the aisle who have brought this legislation to the floor. Let us pass it today in a bipartisan way and send a strong message to the Senate that it is about time to help people out there be able to make the kind of wise decisions they should be making for their own retirement.

□ 1200

Mr. ANDREWS. Mr. Speaker, may I inquire of the Chair how much time the Committee on Education and the Workforce minority has remaining.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Ohio (Mr. BOEHNER) has 19 minutes remaining; the gentleman from New Jersey (Mr. ANDREWS) has 11½ minutes remaining; the gentleman from Texas (Mr. SAM JOHNSON) has 9 minutes remaining; and the gentleman from Washington (Mr. McDERMOTT) has 10½ minutes remaining.

Mr. ANDREWS. Mr. Speaker, I yield myself 20 seconds.

Mr. Speaker, the gentleman from Ohio (Mr. PORTMAN), my friend, just spoke about his representation that one needs to be a trust officer of a bank. I would respectfully disagree. Page 10 of the bill, line 12, indicates an employee, agent, or registered representative of a person describing an institution who satisfies the requirements is qualified. So if there are no local applicable banking or securities laws; a mere employee of a bank or an insurance company is qualified to give the advice.

So the gentlewoman from California (Ms. SANCHEZ) was correct in our description.

Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. TIERNEY), a committee member.

Mr. TIERNEY. Mr. Speaker, I thank the gentleman from New Jersey for yielding me this time.

Like many Members, I represent people who have worked hard and whose entire hope for a secure retirement may well rest on the success of their 401(k): leather workers, jet engine assemblers, teachers, nurses, and other hard-working, intelligent folks who are bright and able, but many of whom have little experience in understanding investment fundamentals. They may lack the time or even the knowledge to work through a mountain of financial information. They need advice that is given by a provider that meets at least minimum standards, one who is qualified and one who is subject to the laws of ERISA's fiduciary standards, standards of trust, and one who is free from financial conflict, free from divided loyalties; and they need an advisor who will put the worker's or investor's interests first, above profit.

Consider this following example: two mutual funds, each posting annual gains of 12 percent consistently for 30 years. One fund has an expense fee of 1 percent, the other an expense fee of 2 percent. If you invested \$10,000 in each fund, the fund with the lower expense fee at the end of 30 years would earn \$229,000, but the one with the higher expense fee of 2 percent would have only \$174,000. The mutual fund would pocket the difference of \$55,000.

Obviously, there may be little incentive for the advisor connected to the mutual fund to highlight the significance of this conflict, of his or her potential gain in steering someone to the higher fee investment. Why should we allow such a conflict of interest to exist when it is not necessary?

Perhaps that is why the fund industry is lobbying so hard for this bill, but workers and retirees are not asking for its passage. These hard-working people, like other investors, need and want good, sound advice; but allowing money managers to make recommendations that will generate more income for themselves hardly falls into the realm of independent advice.

In 1974, Congress chose to ban transactions between pension plans and parties with a conflict of interest, except under very narrow circumstances; and they did that for a simple reason. There is too great a danger that a party with a conflict of interest will act in its own best interests rather than exclusively for the benefit of the workers. That concern is no less valid today.

Studies by the financial industry itself have found broker conflicts have harmed advice received by individuals, audit conflicts have undercut the value of audits on financial firms, analyst reports have shown significant evidence of bias in comparing ratings. The law, ERISA, was designed to protect against just these types of issues.

Our shared goal should be to increase access to investment advice for individual account plan participants. We need not obliterate long-standing protections for plan participants in order to do that. Surveys show that the most important reason advice may not now be offered is that employers have fears that they may be held liable for advice gone bad. The remedy for that, and it is in the bill, is that Congress should encourage more employers to provide independent advice by addressing employer liability. It should clarify that an employer would not be liable for specific advice if it undertook due diligence selecting and monitoring the advice provided. It is as simple as that. There is no need for conflicted advice.

Many plans already provide for investment education. Many plans now provide independent investment advice through financial institutions and other firms without conflict. Clarifying that employers would not be liable if they undertake due diligence with respect to advice providers would further increase advice as necessary.

Disclosure alone will not mitigate potential problems. The alternative bill in adding some protections and mandating a choice of alternative advice that is not conflicted is a better idea, but the best idea remains a prohibition against conflicted advice. Congress, by clearing up the liability issue, can encourage independent, unbiased investment advice that will better enable employers to improve their long-term retirement security, while minimizing the potential for employee dissatisfaction and possible litigation. This is what is in the best interests of the plan participants and, in fact, the best interests of the plan; and it certainly is in the best interests of the hard-working people in my district who need to know that their retirement is secure.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from California (Mr. DOOLEY).

Mr. DOOLEY of California. Mr. Speaker, I rise in support of H.R. 2269, and I appreciate all of the work that has gone in to crafting this piece of legislation.

In my estimation, this legislation is long overdue. What we are seeing is an increasing number of working people that are participating in plans that require a defined contribution. They need to have access to the information that allows them to make the decisions that are going to maximize the returns on their investments and their retirement accounts.

This is inevitable, as we are seeing more and more people that are coming to expect that they will have more choices, more choices in the consumer products that they are accessing, as well as more choices in the financial alternatives they have to meet their retirement needs.

I think this legislation takes a very balanced approach, and especially with some of the modifications that were

agreed to by the gentleman from Ohio (Mr. BOEHNER) that were offered by the gentleman from North Dakota (Mr. POMEROY), and I think it also addresses some of the remaining concerns. It does provide for adequate disclosure. It does provide for fiduciary responsibility. Sometimes I think we are being a little bit condescending to a lot of the people who are participating in these plans when we are not giving them the credit for engaging in their own due diligence by trying to determine what the costs will be and what the values are of the various instruments of investment that they are going to be considering.

Mr. Speaker, most people today are becoming increasingly aware that you have to consider the cost of a particular plan. Most people are becoming aware that there is increasing risk and volatility with different mechanisms that you could invest in.

I remember when Mr. LIEBERMAN was engaged in his last campaign and he said, it is interesting, when I would be making some visits to labor groups and, in particular, I went into a firehouse and met with some firemen there, and he said, their questions to me were not about some of the challenges they face in their jobs, he says, their questions were all about their 401(k) plans and the investments that they were making. He said they had more information than most people that he had come into contact with often on Wall Street.

Mr. Speaker, this bill takes a balanced approach. I urge its passage. I thank all of the people involved in this.

Mr. BOEHNER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. OXLEY), the chairman of the Committee on Financial Services.

(Mr. OXLEY asked and was given permission to revise and extend his remarks.)

Mr. OXLEY. Mr. Speaker, I want to thank the gentleman from Ohio, my good friend, for his leadership on this issue, and the gentleman from Texas.

This is an important piece of legislation that really represents bringing ERISA into the 21st century. Let us face it, ERISA was passed almost a quarter of a century ago; and times have changed. I am convinced, after looking at this piece of legislation, that the responsibilities of the investment advisors are fully covered and regulated by the Securities and Exchange Commission, and by various State regulations. I think nobody needs to fear that these folks will not be regulated. They have been regulated over the years and will continue to be so to make sure that the investors are protected.

I was reminded of a story the gentleman from California raised about the visit to the firehouse by Senator LIEBERMAN. I had a similar situation in my office just last year where I had a young worker from my congressional district who had come in to talk to me. He was a member of the machinist

union. He did not want to talk about those kinds of issues that he had just heard over at the machinist union. He wanted to talk about investments; he wanted to talk about his future, his financial future. He told me he was 30 years old, he had a couple of kids, he had an IRA, he had a 401(k) plan, and he was interested in the future of Social Security, and he was also interested in his ability to make sound decisions of his investments and his future.

That really is a striking example, I think, that we are seeing all over the country. We have over half of the households today who are invested in equities, over half of the households. That is a sea change in the way America looks at its investment opportunities. That is a huge change. Just 20, 25 years ago, two-thirds of people's savings were in bank deposits. Today, two-thirds of their savings are in equities. That is a huge change that we have seen in this country. Let us treat these workers, these folks like adults. Let us not say to them they need to make decisions on their own. They need the kind of advice that this bill provides them. I urge strong support for this legislation.

Mr. McDERMOTT. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. LAFALCE).

(Mr. LAFALCE asked and was given permission to revise and extend his remarks.)

Mr. LAFALCE. Mr. Speaker, I rise in opposition to H.R. 2269. I was listening to the distinguished chairman of the House Committee on Financial Services just now, and I have the honor of serving as the ranking member. I guess we have heard different things at the committee hearings and drawn different conclusions.

I heard about the tremendous conflicts of interest that existed within securities firms. Absolutely outrageous, individuals getting participations within IPOs and then giving analyst advice concerning those IPOs. That is just one small example.

I heard testimony that in the year 2000, of all of the recommendations that were given regarding stocks, 1 percent were sell recommendations, 1 percent in the year 2000.

I heard testimony that talked about earnings management or earnings manipulation, earnings manipulation on the part of the chief financial officers and the chief executive officers of major corporations, Fortune 500 companies; earnings management, earnings manipulation by the audit committees of the board of directors, all, of course, with stock options and a vested interest in what those earnings were. And earnings management and earnings manipulation on the part of the accounting firms who often had a conflict of interest also.

Mr. Speaker, disclosure does not do the trick. Disclosure does not protect the investor. In a day when we have converted from primarily defined benefit plans to overwhelmingly defined

contribution plans, the need for a strong prophylactic ERISA is greater than ever. We eviscerate those protections within ERISA and we say, well, let us disclose the conflicts. That is grossly inadequate.

Surely we need to come up with better investment advice for the participants within pension plans, but we also need to protect against conflicts. The bill does not do that. The alternative does. Maybe that is why the representatives of the employees in the 401(k) plans, the AFL-CIO and so many others, the Consumer Federation of America, et cetera, say support the substitute, but reject the bill that has been reported out of committee.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from California (Mr. McKEON), a subcommittee chairman over in our committee.

Mr. McKEON. Mr. Speaker, I thank the gentleman for yielding.

I rise today in strong support of H.R. 2269, the Retirement Security Service Act. I want to thank the gentleman from Ohio (Mr. BOEHNER) and the gentleman from Texas (Mr. SAM JOHNSON), the subcommittee chairman, for bringing this important legislation to the floor for our consideration.

Many workers might not know it, but there is an outdated provision within a 27-year-old Federal law that unintentionally prohibits their employers from providing access to high-quality investment advice. The Employee Retirement Income Security Act, also known as ERISA, was written in 1974 at a time when no one had heard of 401(k) plans and no one ever imagined that so many people would participate in the stock market like they do today.

□ 1215

Under ERISA, the mutual funds, banks, and insurance companies that administer 401(k)s can only provide general investment education directly to participants in those plans. They are prohibited from providing advice about a person's specific investments.

Since last year when the market began to slide and the economy began showing signs of weakness, many workers have watched their retirement savings dwindle. People need sound advice, especially during these times, to maximize their investment opportunities by making it possible for workers to be able to get the same kind of advice that wealthy individuals are able to pay for out of pocket.

H.R. 2269 would do just that. This legislation modernizes ERISA to let employers give their employees access to high-quality, tailored investment advice, as long as financial advisors fully disclose their fees and any potential conflicts.

I have heard some scare talk here about, we need to protect people from charlatans or from people who would take advantage of them. But I think that we need to give the people credit for understanding and being able to

separate advice. The important thing is that they should be able to get it.

This bill retains important safeguards and includes new protections to ensure that participants receive advice that is solely in their best interests. The measure requires that advice be given only by fiduciary advisors which are qualified, fully regulated entities, like insurance companies and banks, that would be held liable for any failure to act solely in the interests of the worker.

Moreover, the whole process is completely voluntary, because the bill does not require any employer to contract with investment advisers, and no employee will be obligated to accept any advice.

As Members can see, Mr. Speaker, H.R. 2269 provides assistance for hard-working Americans so that they can wisely plan their retirement years. Therefore, I strongly urge all my colleagues to support this much-needed legislation.

Mr. ANDREWS. Mr. Speaker, I am pleased to yield 3 minutes to the distinguished gentlewoman from Hawaii (Mrs. MINK), a member of our committee.

Mrs. MINK of Hawaii. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise today, Mr. Speaker, to urge a no vote on H.R. 2269, the Retirement Security Advice Act of 2001.

When Congress enacted the Employee Retirement Income Security Act, known as ERISA, in 1964, the goal was to protect employee pension benefits, which it has done tenaciously since enactment.

In the ensuing 27 years, employees have seen significant changes to their pension plans. Many companies no longer offer predefined benefit plans, and many workers place their retirement funds in stock markets using 401(k) and other similar investment plans.

According to the Investment Company Institute, over 42 million people use 401(k)s and other similar plans. Last year, the total value of these plans reached \$2.6 trillion. These plans offer higher returns and, of course, higher risks.

In today's market, the value of one's investments could change drastically in the course of a year or even 1 day. With the highly volatile stock market, no one questions the need for providing good, sound, reliable advice to invest one's retirement funds. We must therefore ensure that the underlying principles behind ERISA remain intact. We must protect the interests of workers and their beneficiaries.

H.R. 2269 fails to provide the basic protections that all workers deserve. The bill allows unqualified individuals to provide investment advice. We should make advisers obtain Federal and State licenses or other qualified certifications. They should not be connected in any way to the investment industry or investment companies who could benefit from the advice given.

Advisors often receive financial rewards for recommending certain investments over others, but H.R. 2269 does not require advisors to clearly disclose their incentives for making a particular recommendation. Advisors can bury disclosures in a mound of paperwork that the average investor will not read or understand. Advisors who will make money on giving advice should clearly and continually warn workers of any conflicts of interest.

Proponents of the bill say, well, the advice is free. This is not true. Each investment that the worker makes will pay from 1 to 1.5 percent of the money invested to the broker. There is big money at stake involved in the advice given and the advice taken. The bill allows investment companies to make billions of dollars every year.

Advisors entangled with payoffs, depending upon the advice given to the worker, should be absolutely forbidden in this access provision.

The bill does not provide any remedy or penalties for tainted advice. I urge this House to reject this legislation.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT), a member of our committee.

Mrs. BIGGERT. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, when a person has a cold, he can go to his local drugstore and choose among dozens of different cold remedies. When he is not sure which medicine is appropriate, there is a pharmacist available who can provide expert advice and help him to make the best selection.

Yet, when it comes to 401(k) plans in the workplace, Congress, in effect, has gagged the pharmacist. Employers pay good money to provide an excellent benefit to their employees, 401(k) plans run by professionals, yet our 27-year-old law, ERISA, effectively silences those investment professionals, denying employees a major part of the benefit their employer has intended for them.

Now, more than ever, Americans investing their retirement income in 401(k) plans need access to critical investment advice that will help them achieve their financial goals. The Retirement Security Advice Act of 2001 updates our laws so workers can have access to high-quality professional investment advice. These advisors will be required to fully disclose their fees and any potential conflicts. This legislation also establishes important safeguards to ensure that investors' goals are met.

Mr. Speaker, let us stop gagging the pharmacist or silencing the investment advisor. Let us make it easier for the 42 million Americans who participate in 401(k) plans to choose among investments. Let us pass H.R. 2269, which will increase employee participation and enable more workers to live out their American dreams.

I urge my colleagues to support the Retirement Security Advice Act of 2001.

Mr. BOEHNER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. HOLT), a member of our committee.

Mr. HOLT. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the Retirement Security Advice Act of 2001. We need to be sure that the law allows families to have a wide range of investment advice as they plan for their retirement. As we do so, we need to ensure that there are adequate protections for these workers.

Under the bill, there are protections. The advisors are subject to a fiduciary duty and will be personally liable for failure to act solely in the interest of the worker. Under the bill, the Labor Department is authorized to seek both criminal and civil penalties if an advisor breaches that responsibility.

The language also contains provisions to ensure that there is full disclosure in plain language to the workers of fees and conflicts of interest. These disclosures and fiduciary protections are significantly stronger than the average investor has today.

Now, the bill is not perfect. I believe that we may strengthen the bill by adding provisions to make sure that workers know where they can get a financial second opinion. I want to express my appreciation to the gentleman from Ohio (Chairman BOEHNER) for representing my views and agreeing to take these into consideration in conference. I want to continue to work with him and the gentleman from California (Chairman THOMAS) on this subject as the bill moves through the legislative process.

This bill gives workers important new options they do not now have. That is why we want to do it. It modernizes the law to reflect the realities of the real world, the way people actually invest and plan their retirements today. This is a step forward and worthy of support.

Mr. ANDREWS. Mr. Speaker, I am happy to yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY), a real authority on human resources and employee relations.

(Ms. WOOLSEY asked and was given permission to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, H.R. 2269 is a prime example of how a good idea can be turned into a bad bill. It is a good idea to make investment advice available to employees at their workplace. Of course it is a good idea. But allowing self-interested advisors, those who could benefit from the advice they give, in the workplace is not a good idea; it is an extremely bad idea. But that is exactly what H.R. 2269 does.

Please remember why ERISA was enacted in the first place. It was enacted to protect workers from abuses related to their benefits. So ERISA now prohibits investment advisors from coming to a workplace and providing em-

ployees with investment advice if there is any reason to think that the advisor might benefit from recommending one investment or another.

ERISA was enacted to protect workers from abuses related to their benefits, and this protection has worked for over 25 years. But with H.R. 2269, we are saying that it is okay to have investment sales folks at the workplace under the guise of the employer's endorsement providing investment advice to their employees.

Think about this: We have employees with 401(k) plans, many of whom have little or no knowledge of high finance. The employer brings an investment advisor to the workplace. That has to appear as if the employer endorses whatever this advisor is selling. Members cannot tell me that most employees will not be strongly inclined to accept the investment advice given them under those circumstances.

If the advice is poor or, heaven forbid, the advice is downright wrong, or if it is some kind of scam in the short run, there is no protection for that employee.

There is hope, however. Fortunately, we have a substitute to H.R. 2269. That is the Andrews substitute. The Andrews substitute keeps the good idea of making investment advice available to employees in the workplace, but it builds on the protections in current law that employees need and must have and must be able to depend on.

The Andrews substitute is a win-win for employees, and I urge my colleagues to vote against H.R. 2269 unless the substitute is included.

PARLIAMENTARY INQUIRY

Mr. BOEHNER. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman will state it.

Mr. BOEHNER. Mr. Speaker, we just have the remaining time we expect to use. Who has the right to close, or what would the order of closing be?

The SPEAKER pro tempore. The Committee on Ways and Means will finish their time first, and then the gentleman from Ohio (Mr. BOEHNER) has the right to close.

Mr. BOEHNER. I thank the Chair.

Mr. McDERMOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, sometimes when I come out on this floor I think I have entered the French theater of the absurd.

We are having a bill brought here to us about financial advice. I remember, when this year started, that we had \$5.6 trillion in surplus, and all the discussion was about what should we do with it: Shall we pay off the debt? Shall we save it for Social Security? Shall we save it for Medicare?

The decision was, oh, the first thing we should do is give about \$2 trillion of it away.

□ 1230

We are going to do that with a tax break. We said it is 130 trillion, but it

turned out to be more like two, and so we go.

We have now spent all the Social Security money. That is the advice we are giving to the American people, and then we say, we want to turn you over to the hands of these nice salesmen, they will take care of you. We have taken away their medical security. We have not even put the money that they contributed into the Medicare program. If we were under ERISA, we would be before the courts for the way we are handling the investments of our constituents.

We got so wild around here with our tax cuts and all the problems after they figured it all out, and said, well, we need an economic stimulus bill. So we come out here with a nonsense bill, give it another \$161 billion off to major companies in this country. This is our advice to America. This is what we think and then this bill is the follow-on.

That nonsense of the stimulus package has run into the ditch over in the Senate. I never thought I would count on another body to save us from ourselves. I know they are going to save us from this bill ultimately. This really looks to me like, the other bill, sort of a fund-raising bill, and when I stand here and think about it and listen to all this talk, I cannot help thinking about my grandfather.

He was an Irish immigrant, went to the second grade. He could read the newspaper a little bit and he could sign his name. That was the basis of his education. He was a hod carrier down in central Illinois, and in the 1920s, there was a scam in this country. A guy named Samuel Insull was selling energy stock or utility stock all over the country, and the whole rage in this little town where my grandparents lived, Streator, Illinois, everybody was buying Insull stock, you have got to buy Insull stock, you are going to get rich, real rich real quick. Everybody in the neighborhood was borrowing and putting their money into the Insull business.

My grandmother came to my grandfather and said, well, Jim, I think we should buy some of that Insull stock, and he said to her, if this is such a good idea, why are those boys from Chicago down here in the cornfield selling it to us? He did not put any of his money in. He said we have got \$500 in the bank. I tell you what, Jane, you can take your 250 and put it in the stock, but I am keeping mine in the bank.

She followed his advice, and they had their money when Insull went belly up in 1929, and everybody in Streator, Illinois, lost every blooming dime they had put in it.

Investment advice to ordinary people is a big issue. If you are a hod carrier or you are a cab driver or you are doing any one of a number of jobs in this country and you are suddenly faced with this question of what should I do with my money for when I get old and somebody comes to you who has a con-

flict of interest about it, what do you do at that point? You say to your employer, give me another advisor.

The bill does not allow that. It does not say you can give me this guy with the vested interest, but I would also like one who is just sort of on my side maybe, and maybe I can get back at him if he gives me bad advice. We say to the workers of this country, we are going to take this away from you at the very time when we are acting financially as irresponsible as we could be.

We are the Congress. If it was run by the House of Representatives, we would be borrowing money right now to give back to the companies of this country \$25 billion they paid back in 1986. That is the kind of financial advice we are giving this country. We are saying, well, we are going to stimulate things, we are going to give money back to IBM and Ford and all those companies while they are laying people off. We give \$15 billion to the airlines because we do not want them to get in trouble, right, and all those investment people are out there selling those stocks, right, keep buying that American Airlines and United Airlines and all those stocks.

So we give them \$15 billion. We are going to stabilize it. We do not give one single penny to the workers for their health insurance or for their unemployment, and they lay off 100,000 people in the airline industry, and Boeing lays off 30,000 because when the airline industry goes down, so does Boeing go down and everybody else; but they have still got their 401(k), and we say, well, we are going to give you an advisor to tell you what to do with your money, and that is business.

I say this is bad legislation. It looks to me like a fund-raising piece, not a real serious effort to take care of people's investments. If the amendments that were offered here were accepted, all of us would be in favor of it. We think people ought to have advice, but it has got to be advice that is not conflicted, that does not have its own pocket interest, and I think that we will have a substitute offered by the gentleman from New Jersey (Mr. ANDREWS) and the gentleman from New York (Mr. RANGEL) which will fix this bill, but I urge people to vote against the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

There is a broad consensus that workers need access to expert investment advice. I did not know we were going to talk about tax relief and other subjects, but there are only 16 percent of 401(k) participants that have access to investment advice through their retirement plans, and only 17 percent have access through outside advisors. Seventy-five percent of full-time employees surveyed said they would take advantage of individualized advice

service if their employers offered it, and we have been hearing about banks.

Banks are regularly examined. Examinations occur frequently. Bank tellers cannot provide investment advice. Bank trust departments have a long history of trust investment, and they have been managing trusts for over two centuries. Banks manage over \$2 trillion in employment benefit trusts, and banks have strong capital, which provides added protection for funds being invested. I doubt there is a bank in this country that would allow their trust department to make bad advice because the bank would be out of business.

Recent market volatility tells us investment decisions must be based on solid and experienced judgment. Yet, as of today, we continue to deny our employees the same tools that corporations and unions are allowed to use in making sound investment decisions for their defined benefit plans. This bill changes that. Simply put, this measure ends investment ignorance and provides workers full control over their investment decisions. It repeals an outdated 1974 law that denies millions of Americans access to investment advice that could help them make the most of their retirement savings.

No longer will wealthy individuals be the only ones to enjoy the luxury of being able to afford their own professional investment advice. Now low and middle income Americans will have the same choice.

Since individuals bear the risk of stock market volatility in their 401(k) accounts, they are the ones who must have advice on how to better diversify their portfolios so they are financially prepared for retirement.

H.R. 2269 will permit employers to offer investment advice as an employee benefit. This legislation does not require any employer to contract with an investment advisor and no employee is under any obligation to accept or follow any advice.

This bill is good policy for today's workers and tomorrow's retirees. That is why the bill has been endorsed by the Department of Labor, the Department of Treasury and the Department of Commerce.

In testifying before my subcommittee, Department of Labor Assistant Secretary Ann Combs praised the bill and said, "We believe the bill creates a strong protective framework for the provision of investment advice to participants. Both the Committee on Ways and Means and the Committee on Education and the Workforce have worked hard to take a balanced approach for increasing worker access to advice while including safeguards to protect employees' interests."

I urge Members to join all of us in supporting H.R. 2269. Without it, millions of Americans will be in the dark in protecting and growing their retirement nest egg.

Mr. Speaker, I yield back the balance of my time.

Mr. ANDREWS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to vote against this bill. People need investment advice, that is true, but it is also true they are getting it from the independent sources that are out there in increasingly high numbers.

Just 2 years ago only 17 percent of employers were offering investment advice options; today it is up to 31 percent, nearly double, and it is growing. When someone goes for investment advice and the advice is being given by a conflicted advisor, that conflict ought to be disclosed at the time of the decision. That does not happen under this bill.

The advisor ought to be completely qualified and accountable. That does not happen under this bill. The person receiving the advice ought to know that he or she has other independent choices. That does not happen under this bill. And if the advice that is given is bad and hurts the investor, there ought to be adequate remedies to make that investor whole. That does not happen under this bill.

For all of these reasons, and the others stated by my colleagues, I would urge a vote against the underlying legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. BOEHNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I think all of us agree that we want to do everything possible to improve the retirement security of all American workers. And I think, based on what we have heard here today, all of the Members believe that providing investment advice for those employees who have self-directed pension accounts is vital.

In 1974, when ERISA was enacted, 95 percent of pension assets were in defined benefit programs. And no one in 1974 with the enactment of ERISA ever envisioned that we would have the number of self-directed accounts, such as 401(k) accounts, and the amount of participation and the huge shift in assets away from defined benefit plans towards defined contribution plans.

What that has done is leave us in a situation today, where millions of American workers have trillions of dollars in their retirement savings, that basically they are left to their own ability to hire an investment advisor, because under the law as written in 1974, we have so protected and insulated American workers that there is really no place they can turn for advice. And so where do they turn for advice? They turn to Bob at the coffee shop.

So what we are trying to do here in this bill today is to provide a mechanism for providing specific investment advice to employees while providing safeguards to protect their retirement security. We believe that there has to be a balance between the offering of the advice and the amount of protections.

Is there risk involved in this bill? Yes, there is. Do we think American workers are smart enough and bright enough to make these decisions? Yes, they are.

It is a completely voluntary program for employers and employees. Once the advice is given within the safeguards that will be outlined in this bill, the employee has no inhibitions about making their own decisions about how they want to allocate their assets and their needs based on their own retirements.

The problem that we have with the additional safeguards that are being proposed here is that they will so restrict the ability to get advice that we will get what we have today and that is no advice at all. Now, if our goal truly is to provide more investment advice for American workers, we have got to strike a balance, a balance that will work for employers and those who would be there to provide advice.

Now, we are hearing an awful lot of criticism about people who sell products and the fact that under this bill they would be able to give advice after they have disclosed any potential conflicts, after they have disclosed their fees, and with other protections.

Now, what they really want to do is, they want to eliminate this sector from being able to give advice. These are the most respected investment firms in the country, with the best track record of investment advice in the country, that we would want to shove out of this market and prevent these people from giving their expertise and advice to the American workers. I just do not think that that makes any sense in the marketplace we are in. And so I think if we all step back and look at where we are trying to go, I have worked with Members on both sides of the aisle trying to craft a proper set of balances.

□ 1245

And in the debate today, the gentleman from North Dakota (Mr. POMEROY) and I came to an agreement to add additional protections to this bill that I do think will protect American workers more without hindering the ability of employers or their agents to provide the kind of investment advice that American workers so sorely need and want today.

So I would ask my colleagues, as we continue to move this process along, that we continue to work together to try to find the right balance, because, as we know, the action in the House today will not be the end of the process. It is actually the beginning of the process. This bill will have to go through the Senate, and I am confident that we will be able to continue to move this in a strong bipartisan manner.

I ask all of my colleagues today to support the underlying bill and do what we can to help American workers increase their retirement security.

Mr. STARK. Mr. Speaker, I oppose H.R. 2269, the falsely named Retirement Security

Advice Act of 2001, introduced by Representative BOEHNER. The bill not only neglects to provide any type of security for workers' retirement, but it actually puts worker retirement plans at greater risk for fraudulent activity.

Workers need independent financial advice, not advice plagued by self-interest. Current pension law ensures that those who manage or administer assets of a pension plan cannot engage in any transaction under the plan in which they have a financial or other conflict of interest. These rules, known as the prohibited transaction rules, are designed to ensure that the best interest of the investor is maintained. When these rules are eliminated, as H.R. 2269 calls for, the integrity of the pension system is threatened by fraud and abuse.

For example, one of our nation's premier investment companies, Prudential, in 1996, agreed to pay at least \$410 million in restitution and fines to compensate investors who suffered losses to fraud as far back as 1980. Many Wall Street brokerage firms sold limited partnerships in the 1980's to customers seeking tax deductions and the potential for profit from asset appreciation. However, these investments were typically suitable only for wealthy investors because of their speculative nature. Prudential made nearly \$1 billion in commissions and fees from the sale of its partnerships. In addition to the limited partnership claims, widespread securities law violations were made at various Prudential branches across the country. These practices included:

Lying about risk—Selling risky real estate and energy partnerships to pension funds, retirees and other individual investors who were told their investments were safe.

Lying about return—Publishing promotional material that misled investors about the return they could expect on their money.

Turning a blind eye to a subsidiary—Inadequately supervising the subsidiary that advertised and sold the partnerships.

Turning a blind eye to employees—Inadequately supervising employees in nine branch offices, whose fraudulent practices resulted in losses of hundreds of thousands of dollars from customers.

Churning—Trading excessively without authorization in clients' accounts to increase brokers' commissions.

The settlement affected 8 million investors in every state, the District of Columbia and Puerto Rico. Many of the investors were elderly and faced the risk of not being compensated in their lifetime.

Workers should have access to investment advice they can be certain is neither influenced by corporate profit motives or driven by a company's need to unload undesirable financial products. H.R. 2269 undermines that certainty by permitting advisors to provide plan participants with self-interested advice regarding the investment options under the plan, as well as asset allocation. Under H.R. 2269, both financially sophisticated and financially inexperienced workers would lose access to independent investment advice under their 401(k) plans. Clearly, this provides less security than employees currently receive and has the potential for fraudulent activity that would be virtually impossible to remedy under our judicial system.

The fraudulent Prudential activity illustrates the need for unbiased, independent investment advice for employees. We cannot allow

motivation and campaign contributions from the securities, banking and insurance industry to imperil the pensions of 42 million workers who participate in self-directed pension plans. It is easy to see who will benefit from this bill when organizations like Prudential and Citigroup support the bill and organizations that oppose it include AARP and the AFL-CIO.

Workers won't get the critical independent advice from the Boehner bill, but they will from the Democratic substitute bill. The Democratic substitute bill requires that if a conflict of interest exists, that the investment advisor would be required to provide additional independent advice at no additional charge to the investor. If Prudential is going to make a greater profit by advising the investor to invest in Prudential funds, then an independent advisor with no such direct profit interest, must be available to either validate Prudential's advice or provide alternative advice to give the employee a less biased opinion.

The debate is clear. The bill before us will hurt the retirement of millions of workers, but it will increase profits for investment advisors and investment companies. I urge my colleagues to vote for the Democratic substitute bill and vote no on H.R. 2269.

Mr. CARDIN. Mr. Speaker, over the past twenty years, this country has witnessed a revolution in the way American workers save for their retirement. The central feature of this revolution has been the shift from defined benefit to defined contribution plans, and, in particular, the explosion in the growth of 401(k) plans. Through employer-sponsored 401(k) plans, tens of millions of middle class Americans have entered the investment class, many of them encountering their first exposure to the workings of the stock markets.

This trend has important implications with respect to the retirement security of these workers. Under the defined benefit model, the risk and responsibility for making prudent investments rests with the employer. At the end of the day, the employer is on the hook to provide the promised benefits. Should the employer fail to meet this obligation, the federal government, through the Pension Benefit Guaranty Corporation, provides added protection to make sure those benefits will be there when workers retire.

In the 401(k) world, however, the risk and the responsibility rest with the worker. Individual investment choices and decisions can make a huge difference in terms of the size of the retirement nest egg that a worker accumulates. For many workers, this reality leads to one very basic question: "Where should I put my money?"

This bill recognizes the need to provide workers with a responsible, reliable answer to that question. I commend the gentleman from Ohio, the Chairman of the Education and the Workforce Committee, for his leadership on this issue. He has recognized that the need for retirement investment advice for America's workers is great, and deserves our thanks for bringing this issue to the fore.

The bill does two things to make it more possible for workers to get investment advice. First, it provides liability relief for employers. Currently, surveys of employers tell us that a major impediment to employers retaining investment advice firms for their employees is the concern that they, the employer, will ultimately be held responsible for the specific ad-

vice provided. The bill before the House says that if the employer exercises prudence in selecting the adviser, he or she will not be subject to liability for the advice provided. This is a good, sensible reform, and I support it.

The second issue addressed by the bill goes to the current restrictions within ERISA dealing with "prohibited transactions." ERISA contains important protections that prevent investment advisers from advising plan participants to invest in products where the adviser has a conflict of interest. It is a sensible protection, and one that should only be lifted with great care.

The bill before us does not, in my judgment, provide satisfactory protections for workers faced with investment advisers providing conflicted advice. The bill will require advisers to disclose that they are in a position to make money on the advice they are offering. That is an important provision, and the disclosure provisions were strengthened by the amendment presented by the Chairman of the Ways and Means Committee.

But disclosure of the conflict by itself is not enough. Workers need to know more than that the person sitting in front of them will make money if their advice is followed. They need to have a full range of investment options. They need to know the range of fees that are charged for different types of investments, and how those fees will affect their long-term returns.

In short, this bill does not provide any assurance or requirement that workers will have the information they need to make prudent investment decisions. On the other hand, at the end of this debate, we will have a substitute that attempts to address these problems. I certainly commend the gentleman from New Jersey for his work on this issue and for his longstanding commitment to expanding retirement savings opportunities for American workers. But I am concerned that the substitute imposes requirements that will make it unlikely that employers will take the necessary first step of providing investment advice to their workers.

Mr. Speaker, America's workers need investment advice on their retirement savings accounts. Unfortunately, today we have two choices. The Republican bill takes the position that bad advice is better than no advice, and the substitute takes the position that no advice is better than bad advice. The right answer, of course, is that what the 42 million Americans who participate in a 401(k) account need is not bad advice, or no advice, but good advice. We need to put together a bill that will give employers, workers, and the investment community the chance to get that job done.

Mr. CRANE. Mr. Speaker, I rise in strong support of the Retirement Security Advice Act of 2001. As a cosponsor of this legislation, I would like to commend Mr. JOHNSON of Texas, Chairman THOMAS, and Chairman BOEHNER for crafting common sense legislation that will help millions of hard-working Americans plan more wisely for their retirement.

Mr. Speaker, while ERISA law is quite complicated, this legislation is quite simple. It allows employers to provide their workers with access to professional investment advice as long as the investment advisers fully disclose their fees and any potential conflicts. At the same time, it establishes significant safeguards to ensure that these workers receive advice that is solely in their best interests.

Under current law, employers are discouraged from providing this service because employers may be held liable for specific advice that is provided to their employees. H.R. 2269 removes the barrier to employers contracting with advice providers and their workers by clarifying that employers are not responsible for the individual advice given by professional advisers to individual participants.

Under this legislation, investment advice may only be offered by "fiduciary advisors"—qualified entities that are already fully regulated under other federal and state laws, such as registered investment advisers, registered broker dealers, insurance companies, and banks. Existing federal and state laws that regulate individual industries will continue to apply. Moreover, employers will remain responsible under ERISA fiduciary rules for the prudent selection and periodic review of any investment advisor.

I urge my colleagues to support H.R. 2269 as amended by the rule.

Mr. BOEHNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). All time for general debate on this bill has expired.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ANDREWS

Mr. ANDREWS. Mr. Speaker, as the designee of the gentleman from California (Mr. GEORGE MILLER), I offer an amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute printed in part B of House Report 107-289 offered by Mr. ANDREWS:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Retirement Security Advice Act of 2001".

SEC. 2. PROHIBITED TRANSACTION EXEMPTION FOR THE PROVISION OF INVESTMENT ADVICE.

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemptions from tax on prohibited transactions) is amended by striking "or" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting "; or"; and by adding at the end the following new paragraph:

"(16) any transaction described in subsection (f)(7)(A) in connection with the provision of investment advice described in subsection (e)(3)(B), in any case in which—

"(A) the plan provides for individual accounts and permits a participant or beneficiary to exercise control over assets in his or her account,

"(B) the advice is qualified investment advice provided to a participant or beneficiary of the plan by a fiduciary adviser in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of plan assets, and

"(C) the requirements of subsection (f)(7)(B) are met in connection with each instance of the provision of the advice."

(2) RULES RELATING TO INVESTMENT ADVICE PROVIDED BY FIDUCIARY ADVISERS.—Subsection (f) of section 4975 of such Code (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

"(7) INVESTMENT ADVICE PROVIDED BY FIDUCIARY ADVISERS.—

“(A) ALLOWABLE TRANSACTIONS.—The transactions described in this subsection, in connection with the provision of investment advice by a fiduciary adviser, are the following:

“(i) the provision of the advice to the participant or beneficiary;

“(ii) the sale, acquisition, or holding of a security or other property (including any lending of money or other extension of credit associated with the sale, acquisition, or holding of a security or other property) pursuant to the advice; and

“(iii) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of the advice.

“(B) REQUIREMENTS FOR EXEMPTION FROM PROHIBITED TRANSACTIONS WITH RESPECT TO PROVISION OF INVESTMENT ADVICE.—The requirements of this subparagraph are met in connection with the provision of qualified investment advice provided to a participant or beneficiary of an employee benefit plan by a fiduciary adviser with respect to the plan in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of amounts held by the plan, if the requirements of the following clauses are met:

“(i) WRITTEN OR ELECTRONIC DISCLOSURES.—At a time contemporaneous with the provision of the advice in connection with the sale, acquisition, or holding of the security or other property, the fiduciary adviser shall provide to the recipient of the advice a clear and conspicuous notification, written (or by electronic means) in a manner to be reasonably understood by the average plan participant pursuant to regulations which shall be prescribed by the Secretary (including mathematical examples), of the following:

“(I) INTERESTS HELD BY THE FIDUCIARY ADVISER.—Any interest of the fiduciary adviser in, or any affiliation or contractual relationship of the fiduciary adviser (or affiliates thereof) with any third party having an interest in, the security or other property.

“(II) RELATED FEES OR COMPENSATION IN CONNECTION WITH THE PROVISION OF THE ADVICE.—All fees or other compensation relating to the advice (including fees or other compensation itemized with respect to each security or other property with respect to which the advice is provided) that the fiduciary adviser (or any affiliate thereof) is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property.

“(III) ONGOING FEES OR COMPENSATION IN CONNECTION WITH THE SECURITY OR PROPERTY INVOLVED.—All fees or other compensation that the fiduciary adviser (or any affiliate thereof) is to receive, on an ongoing basis, in connection with any security or other property with respect to which the fiduciary adviser gives the advice.

“(IV) APPLICABLE LIMITATIONS ON SCOPE OF ADVICE.—Any limitation placed (in accordance with the requirements of this subsection) on the scope of the advice to be provided by the fiduciary adviser with respect to the sale, acquisition, or holding of the security or other property.

“(V) TYPES OF SERVICES GENERALLY OFFERED.—The types of services offered by the fiduciary adviser in connection with the provision of qualified investment advice by the fiduciary adviser.

“(VI) FIDUCIARY STATUS OF THE FIDUCIARY ADVISER.—That the fiduciary adviser is a fiduciary of the plan.

“(ii) DISCLOSURE BY FIDUCIARY ADVISER IN ACCORDANCE WITH APPLICABLE SECURITIES

LAWS.—The fiduciary adviser shall provide appropriate disclosure, in connection with the sale, acquisition, or holding of the security or other property, in accordance with all applicable securities laws.

“(iii) TRANSACTION OCCURRING SOLELY AT DIRECTION OF RECIPIENT OF ADVICE.—The sale, acquisition, or holding of the security or other property shall occur solely at the direction of the recipient of the advice.

“(iv) REASONABLE COMPENSATION.—The compensation received by the fiduciary adviser and affiliates thereof in connection with the sale, acquisition, or holding of the security or other property shall be reasonable.

“(v) ARM'S LENGTH TRANSACTION.—The terms of the sale, acquisition, or holding of the security or other property shall be at least as favorable to the plan as an arm's length transaction would be.

“(C) CONTINUED AVAILABILITY OF INFORMATION FOR AT LEAST 1 YEAR.—The requirements of subparagraph (B)(i) shall be deemed not to have been met in connection with the initial or any subsequent provision of advice described in subparagraph (B) if, at any time during the 1-year period following the provision of the advice, the fiduciary adviser fails to maintain the information described in subclauses (I) through (IV) of subparagraph (B)(i) in currently accurate form or to make the information available, upon request and without charge, to the recipient of the advice.

“(D) EVIDENCE OF COMPLIANCE MAINTAINED FOR AT LEAST 6 YEARS.—A fiduciary adviser referred to in subparagraph (B) who has provided advice referred to in such subparagraph shall, for a period of not less than 6 years after the provision of the advice, maintain any records necessary for determining whether the requirements of the preceding provisions of this paragraph and of subsection (d)(16) have been met. A transaction prohibited under subsection (c)(1) shall not be considered to have occurred solely because the records are lost or destroyed prior to the end of the 6-year period due to circumstances beyond the control of the fiduciary adviser.

“(E) MODEL DISCLOSURE FORMS.—The Secretary shall prescribe regulations setting forth model disclosure forms to assist fiduciary advisers in complying with the disclosure requirements of under this paragraph.

“(F) ANNUAL REVIEWS BY THE SECRETARY.—The Secretary shall conduct annual reviews of randomly selected fiduciary advisers providing qualified investment advice to participants and beneficiaries. In the case of each review, the Secretary shall review the following:

“(i) COMPLIANCE BY ADVICE COMPUTER MODELS WITH REASONABLE INVESTMENT METHODOLOGIES.—The extent to which advice computer models employed by the fiduciary adviser comply with reasonable investment methodologies.

“(ii) COMPLIANCE WITH DISCLOSURE REQUIREMENTS.—The extent to which disclosures provided by the fiduciary adviser have complied with the requirements of this subsection.

“(iii) EXTENT OF VIOLATIONS.—The extent to which any violations of fiduciary duties have occurred in connection with the provision of the advice.

“(iv) EXTENT OF REPORTED COMPLAINTS.—The extent to which complaints to relevant agencies have been made in connection with the provision of the advice.

Any proprietary information obtained by the Secretary shall be treated as confidential.

“(G) DUTY OF CONFLICTED FIDUCIARY ADVISER TO PROVIDE FOR ALTERNATIVE INDEPENDENT ADVICE.—

“(i) IN GENERAL.—In connection with any qualified investment advice provided by a fi-

duciary adviser to a participant or beneficiary regarding any security or other property, if the fiduciary adviser—

“(I) has an interest in the security or other property, or

“(II) has an affiliation or contractual relationship with any third party that has an interest in the security or other property, the requirements of subparagraph (B) shall be treated as not met in connection with the advice unless the fiduciary adviser has arranged, as an alternative to the advice that would otherwise be provided by the fiduciary adviser, for qualified investment advice with respect to the security or other property provided by at least one alternative investment adviser meeting the requirements of clause (ii).

“(ii) INDEPENDENCE AND QUALIFICATIONS OF ALTERNATIVE INVESTMENT ADVISER.—Any alternative investment adviser whose qualified investment advice is arranged for by a fiduciary adviser pursuant to clause (i)—

“(I) shall have no material interest in, and no material affiliation or contractual relationship with any third party having a material interest in, the security or other property with respect to which the investment adviser is providing the advice, and

“(II) shall meet the requirements of a fiduciary adviser under subparagraph (H)(ii) and (iii), except that an alternative investment adviser may not be a fiduciary of the plan other than in connection with the provision of the advice.

“(iii) SCOPE AND FEES OF ALTERNATIVE INVESTMENT ADVICE.—Any qualified investment advice provided pursuant to this subparagraph by an alternative investment adviser shall be of the same type and scope, and provided under the same terms and conditions (including no additional charge to the participant or beneficiary), as apply with respect to the qualified investment advice to be provided by the fiduciary adviser.

“(H) FIDUCIARY ADVISER DEFINED.—For purposes of this paragraph and subsection (d)(16)—

“(i) IN GENERAL.—The term ‘fiduciary adviser’ means, with respect to a plan, a person who—

“(I) is a fiduciary of the plan by reason of the provision of qualified investment advice by such person to a participant or beneficiary,

“(II) meets the qualifications of clause (ii), and

“(III) meets the additional requirements of clause (iii).

“(ii) QUALIFICATIONS.—A person meets the qualifications of this clause if such person—

“(I) is registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.),

“(II) if not registered as an investment adviser under such Act by reason of section 203A(a)(1) of such Act (15 U.S.C. 80b-3a(a)(1)), is registered under the laws of the State in which the fiduciary maintains its principal office and place of business, and, at the time the fiduciary last filed the registration form most recently filed by the fiduciary with such State in order to maintain the fiduciary's registration under the laws of such State, also filed a copy of such form with the Secretary,

“(III) is registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

“(IV) is a bank or similar financial institution referred to in subsection (d)(4),

“(V) is an insurance company qualified to do business under the laws of a State, or

“(VI) is any other comparable qualified entity which satisfies such criteria as the Secretary determines appropriate consistent with the purpose of this subsection.

“(iii) ADDITIONAL REQUIREMENTS WITH RESPECT TO CERTAIN EMPLOYEES OR OTHER AGENTS OF CERTAIN ADVISERS.—A person meets the additional requirements of this clause if every individual who is employed (or otherwise compensated) by such person and whose scope of duties includes the provision of qualified investment advice on behalf of such person to any participant or beneficiary is—

“(I) a registered representative of such person,

“(II) an individual described in subclause (I), (II), or (III) of clause (ii), or

“(III) such other comparable qualified individual who satisfies such criteria as the Secretary determines appropriate consistent with the purpose of this subsection.

“(I) ADDITIONAL DEFINITIONS.—For purposes of this paragraph and subsection (d)(16)—

“(i) QUALIFIED INVESTMENT ADVICE.—The term ‘qualified investment advice’ means, in connection with a participant or beneficiary, investment advice referred to in subsection (e)(3)(B) which—

“(I) consists of an individualized recommendation to the participant or beneficiary with respect to the purchase, sale, or retention of securities or other property for the individual account of the participant or beneficiary, in accordance with generally accepted investment management principles, and

“(II) takes into account all investment options under the plan.

“(ii) REGISTERED REPRESENTATIVE.—The term ‘registered representative’ of another entity means a person described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) (substituting such entity for the broker or dealer referred to in such section) or a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(17)) (substituting such entity for the investment adviser referred to in such section).”.

(3) ASSUMPTION OF LIABILITY.—Subsection (b) of section 4975 of such Code is amended—

(A) by striking “PERSON.—In” and inserting “PERSON.—

“(1) IN GENERAL.—In”, and moving the text 2 ems to the right, and

(B) by adding at the end the following new paragraph:

“(2) ASSUMPTION OF LIABILITY.—If a court determines that a fiduciary advisor has breached his fiduciary responsibility as a result of a failure to meet the requirements of subparagraph (B), (C), (D), or (G) of subsection (e)(7), then, notwithstanding any other provision of this title or the Employee Retirement Income Security Act of 1974, the fiduciary advisor shall be liable for any monetary losses suffered by a participant or beneficiary as a result of such breach.”.

(b) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Section 408(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)) is amended by adding at the end the following new paragraph:

“(14)(A) Any transaction described in subparagraph (B) in connection with the provision of investment advice described in section 3(21)(A)(ii), in any case in which—

“(i) the plan provides for individual accounts and permits a participant or beneficiary to exercise control over assets in his or her account,

“(ii) the advice is qualified investment advice provided to a participant or beneficiary of the plan by a fiduciary adviser in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of plan assets, and

“(iii) the requirements of subsection (g) are met in connection with each instance of the provision of the advice.

“(B) The transactions described in this subparagraph are the following:

“(i) the provision of the advice to the participant or beneficiary;

“(ii) the sale, acquisition, or holding of a security or other property (including any lending of money or other extension of credit associated with the sale, acquisition, or holding of a security or other property) pursuant to the advice; and

“(iii) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of the advice.”.

(2) REQUIREMENTS.—Section 408 of such Act is amended further by adding at the end the following new subsection:

“(g) REQUIREMENTS FOR EXEMPTION FROM PROHIBITED TRANSACTIONS WITH RESPECT TO PROVISION OF INVESTMENT ADVICE.—

“(1) IN GENERAL.—The requirements of this subsection are met in connection with the provision of qualified investment advice provided to a participant or beneficiary of an employee benefit plan by a fiduciary adviser with respect to the plan in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of amounts held by the plan, if the requirements of the following subparagraphs are met:

“(A) WRITTEN DISCLOSURES.—At a time contemporaneous with the provision of the advice in connection with the sale, acquisition, or holding of the security or other property, the fiduciary adviser shall provide to the recipient of the advice a clear and conspicuous notification, written in a manner to be reasonably understood by the average plan participant pursuant to regulations which shall be prescribed by the Secretary (including mathematical examples), of the following:

“(i) INTERESTS HELD BY THE FIDUCIARY ADVISER.—Any interest of the fiduciary adviser in, or any affiliation or contractual relationship of the fiduciary adviser (or affiliates thereof) with any third party having an interest in, the security or other property.

“(ii) RELATED FEES OR COMPENSATION IN CONNECTION WITH THE PROVISION OF THE ADVICE.—All fees or other compensation relating to the advice (including fees or other compensation itemized with respect to each security or other property with respect to which the advice is provided) that the fiduciary adviser (or any affiliate thereof) is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property.

“(iii) ONGOING FEES OR COMPENSATION IN CONNECTION WITH THE SECURITY OR PROPERTY INVOLVED.—All fees or other compensation that the fiduciary adviser (or any affiliate thereof) is to receive, on an ongoing basis, in connection with any security or other property with respect to which the fiduciary adviser gives the advice.

“(iv) APPLICABLE LIMITATIONS ON SCOPE OF ADVICE.—Any limitation placed (in accordance with the requirements of this subsection) on the scope of the advice to be provided by the fiduciary adviser with respect to the sale, acquisition, or holding of the security or other property.

“(v) TYPES OF SERVICES GENERALLY OFFERED.—The types of services offered by the fiduciary adviser in connection with the provision of qualified investment advice by the fiduciary adviser.

“(vi) FIDUCIARY STATUS OF THE FIDUCIARY ADVISER.—That the fiduciary advisor is a fiduciary of the plan.

“(B) DISCLOSURE BY FIDUCIARY ADVISER IN ACCORDANCE WITH APPLICABLE SECURITIES LAWS.—The fiduciary adviser shall provide appropriate disclosure, in connection with any the sale, acquisition, or holding of the security or other property, in accordance with all applicable securities laws.

“(C) TRANSACTION OCCURRING SOLELY AT DIRECTION OF RECIPIENT OF ADVICE.—The sale, acquisition, or holding of the security or other property shall occur solely at the direction of the recipient of the advice.

“(D) REASONABLE COMPENSATION.—The compensation received by the fiduciary adviser and affiliates thereof in connection with the sale, acquisition, or holding of the security or other property shall be reasonable.

“(E) ARM’S LENGTH TRANSACTION.—The terms of the sale, acquisition, or holding of the security or other property shall be at least as favorable to the plan as an arm’s length transaction would be.

“(2) CONTINUED AVAILABILITY OF INFORMATION FOR AT LEAST 1 YEAR.—The requirements of paragraph (1)(A) shall be deemed not to have been met in connection with the initial or any subsequent provision of advice described in paragraph (1) if, at any time during the 1-year period following the provision of the advice, the fiduciary adviser fails to maintain the information described in clauses (i) through (iv) of subparagraph (A) in currently accurate form or to make the information available, upon request and without charge, to the recipient of the advice.

“(3) EVIDENCE OF COMPLIANCE MAINTAINED FOR AT LEAST 6 YEARS.—A fiduciary adviser referred to in paragraph (1) who has provided advice referred to in such paragraph shall, for a period of not less than 6 years after the provision of the advice, maintain any records necessary for determining whether the requirements of the preceding provisions of this subsection and of subsection (b)(14) have been met. A transaction prohibited under section 406 shall not be considered to have occurred solely because the records are lost or destroyed prior to the end of the 6-year period due to circumstances beyond the control of the fiduciary adviser.

“(4) MODEL DISCLOSURE FORMS.—The Secretary shall prescribe regulations setting forth model disclosure forms to assist fiduciary advisers in complying with the disclosure requirements of under this subsection.

“(5) EXEMPTION FOR EMPLOYERS CONTRACTING FOR QUALIFIED INVESTMENT ADVICE.—

“(A) RELIANCE ON CONTRACTUAL ARRANGEMENTS.—Subject to subparagraph (B), a plan sponsor or other person who is a fiduciary (other than a fiduciary adviser) shall not be treated as failing to meet the requirements of this part solely by reason of the provision of qualified investment advice (or solely by reason of contracting for or otherwise arranging for the provision of the investment advice), if—

“(i) the advice is provided by a fiduciary adviser pursuant to an arrangement between the plan sponsor or other fiduciary and the fiduciary adviser for the provision by the fiduciary adviser of qualified investment advice, and

“(ii) the terms of the arrangement require compliance by the fiduciary adviser with the requirements of this subsection.

“(B) CONTINUED DUTY FOR EMPLOYER TO PRUDENTLY SELECT AND REVIEW FIDUCIARY ADVISERS.—Nothing in subparagraph (A) shall be construed to exempt a plan sponsor or other person who is a fiduciary from any requirement of this part for the prudent selection and periodic review of a fiduciary adviser with whom the plan sponsor or other person enters into an arrangement for the

provision of qualified investment advice. The plan sponsor or other person who is a fiduciary shall not be liable under this part with respect to the specific qualified investment advice given by the fiduciary adviser to any particular recipient of the advice. Pursuant to regulations which shall be prescribed by the Secretary, the fiduciary adviser shall provide appropriate disclosures to the plan sponsor to enable the plan sponsor to fulfill its fiduciary responsibilities under this part. In connection with the provision of the advice by a fiduciary adviser on an ongoing basis, such regulations shall provide for such disclosures on at least an annual basis.

“(C) PLAN ASSETS MAY BE USED TO PAY REASONABLE EXPENSES.—Nothing in this part shall be construed to preclude the use of plan assets to pay for reasonable expenses in providing qualified investment advice.

“(6) ANNUAL REVIEWS BY THE SECRETARY.—The Secretary shall conduct annual reviews of randomly selected fiduciary advisers providing qualified investment advice to participants and beneficiaries. In the case of each review, the Secretary shall review the following:

“(A) COMPLIANCE BY ADVICE COMPUTER MODELS WITH GENERALLY ACCEPTED INVESTMENT MANAGEMENT PRINCIPLES.—The extent to which advice computer models employed by the fiduciary adviser comply with generally accepted investment management principles.

“(B) COMPLIANCE WITH DISCLOSURE REQUIREMENTS.—The extent to which disclosures provided by the fiduciary adviser have complied with the requirements of this subsection.

“(C) EXTENT OF VIOLATIONS.—The extent to which any violations of fiduciary duties have occurred in connection with the provision of the advice.

“(D) EXTENT OF REPORTED COMPLAINTS.—The extent to which complaints to relevant agencies have been made in connection with the provision of the advice. Any proprietary information obtained by the Secretary shall be treated as confidential.

“(7) DUTY OF CONFLICTED FIDUCIARY ADVISER TO PROVIDE FOR ALTERNATIVE INDEPENDENT ADVICE.—

“(A) IN GENERAL.—In connection with any qualified investment advice provided by a fiduciary adviser to a participant or beneficiary regarding any security or other property, if the fiduciary adviser—

“(i) has an interest in the security or other property, or

“(ii) has an affiliation or contractual relationship with any third party that has an interest in the security or other property, the requirements of paragraph (1) shall be treated as not met in connection with the advice unless the fiduciary adviser has arranged, as an alternative to the advice that would otherwise be provided by the fiduciary advisor, for qualified investment advice with respect to the security or other property provided by at least one alternative investment adviser meeting the requirements of subparagraph (B).

“(B) INDEPENDENCE AND QUALIFICATIONS OF ALTERNATIVE INVESTMENT ADVISER.—Any alternative investment adviser whose qualified investment advice is arranged for by a fiduciary adviser pursuant to subparagraph (A)—

“(i) shall have no material interest in, and no material affiliation or contractual relationship with any third party having a material interest in, the security or other property with respect to which the investment adviser is providing the advice, and

“(ii) shall meet the requirements of a fiduciary adviser under paragraph (7)(A), except that an alternative investment adviser may not be a fiduciary of the plan other than in connection with the provision of the advice.

“(C) SCOPE AND FEES OF ALTERNATIVE INVESTMENT ADVICE.—Any qualified investment

advice provided pursuant to this paragraph by an alternative investment adviser shall be of the same type and scope, and provided under the same terms and conditions (including no additional charge to the participant or beneficiary), as apply with respect to the qualified investment advice to be provided by the fiduciary adviser.

“(8) FIDUCIARY ADVISER DEFINED.—For purposes of this subsection and subsection (b)(14)—

“(A) IN GENERAL.—The term ‘fiduciary adviser’ means, with respect to a plan, a person—

“(i) who is a fiduciary of the plan by reason of the provision of qualified investment advice by such person to a participant or beneficiary,

“(ii) who—

“(I) is registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.),

“(II) if not registered as an investment adviser under such Act by reason of section 203A(a)(1) of such Act (15 U.S.C. 80b-3a(a)(1)), is registered under the laws of the State in which the fiduciary maintains its principal office and place of business, and, at the time the fiduciary last filed the registration form most recently filed by the fiduciary with such State in order to maintain the fiduciary’s registration under the laws of such State, also filed a copy of such form with the Secretary,

“(III) is registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

“(IV) is a bank or similar financial institution referred to in section 408(b)(4),

“(V) is an insurance company qualified to do business under the laws of a State, or

“(VI) is any other comparable entity which satisfies such criteria as the Secretary determines appropriate, and

“(iii) who is an entity meeting the requirements of subparagraph (B).

“(B) ADDITIONAL REQUIREMENTS WITH RESPECT TO CERTAIN EMPLOYEES OR OTHER AGENTS OF CERTAIN ADVISERS.—The requirements of this subparagraph are met if every individual who is employed (or otherwise compensated) by a person described subparagraph (A)(ii) and whose scope of duties includes the provision of qualified investment advice on behalf of such person to any participant or beneficiary is—

“(i) a registered representative of such person,

“(ii) an individual described in subclause (I), (II), or (III) of subparagraph (A)(ii), or

“(iii) such other comparable qualified individual as may be designated in regulations of the Secretary.

“(9) ADDITIONAL DEFINITIONS.—For purposes of this subsection and subsection (b)(14)—

“(A) QUALIFIED INVESTMENT ADVICE.—The term ‘qualified investment advice’ means, in connection with a participant or beneficiary, investment advice referred to in section 3(21)(A)(ii) which—

“(i) consists of an individualized recommendation to the participant or beneficiary with respect to the purchase, sale, or retention of securities or other property for the individual account of the participant or beneficiary, in accordance with generally accepted investment management principles, and

“(ii) takes into account all investment options under the plan.

“(B) AFFILIATE.—The term ‘affiliate’ of another entity means an affiliated person of such entity (as defined in section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(3))).

“(C) REGISTERED REPRESENTATIVE.—The term ‘registered representative’ of another entity means a person described in section

3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) (substituting such entity for the broker or dealer referred to in such section) or a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(17)) (substituting such entity for the investment adviser referred to in such section).”.

(c) ENFORCEMENT.—

(1) LIABILITY FOR BREACH.—

(A) LIABILITY IN CONNECTION WITH INDIVIDUAL ACCOUNT PLANS.—Section 409 of such Act (29 U.S.C. 1109) is amended by adding at the end the following new subsection:

“(c)(1) In any case in which the provision by a fiduciary adviser of qualified investment advice to a participant or beneficiary regarding any security or other property consists of a breach described in subsection (a), the fiduciary adviser shall be personally liable to make good to the individual account of the participant or beneficiary any losses to the individual account resulting from the breach, and to restore to the individual account any profits of the fiduciary adviser which have been made through use of assets of the individual account by—

“(A) the fiduciary adviser, or

“(B) any other party with respect to whom a material affiliation or contractual relationship of the fiduciary adviser resulted in a violation of section 408(g)(1)(A) in connection with the advice.

“(2) In the case of any action under this title by a participant or beneficiary against a fiduciary adviser for relief under this subsection in connection with the provision of any qualified investment advice—

“(A) if the participant or beneficiary shows that the fiduciary adviser had any interest in, or had any affiliation or contractual relationship with a third party having an interest in, the security or other property, there shall be a presumption (rebuttable by a preponderance of the evidence) that the fiduciary adviser failed to meet the requirements of subparagraphs (A) and (B) of section 404(a)(1) in connection with the provision of the advice, and

“(B) the dispute may be settled by arbitration, but only pursuant to terms and conditions established by agreement entered into voluntarily by both parties after the commencement of the dispute.

“(3) For purposes of this subsection, the terms ‘fiduciary adviser’ and ‘qualified investment advice’ shall have the meanings provided such terms in subparagraphs (A) and (B), respectively, of section 406(g)(7).”.

(B) LIMITATION ON EXEMPTION FROM LIABILITY.—Section 404(c) of such Act (29 U.S.C. 1104(c)) is amended—

(i) by redesignating paragraph (2) as paragraph (3) (and by adjusting the margination of such paragraph to full measure and adjusting the margination of subparagraphs (A) through (B) thereof accordingly); and

(ii) by inserting after paragraph (1) the following new paragraph:

“(2)(A) In any case in which—

“(i) a participant or beneficiary exercises control over the assets in his or her account by means of a sale, acquisition, or holding of a security or other property with regard to which qualified investment advice was provided by a fiduciary adviser, and

“(ii) any transaction in connection with the exercise of such control is not a prohibited transaction solely by reason of section 408(b)(14), paragraph (1) shall not apply with respect to the fiduciary adviser in connection with the provision of the advice.

“(B) For purposes of this subsection, the terms ‘fiduciary adviser’ and ‘qualified investment advice’ shall have the meanings provided such terms in subparagraphs (A) and (B), respectively, of section 406(g)(7).”.

(2) ATTORNEY'S FEES.—Section 502(g) of such Act (29 U.S.C. 1132(g)) is amended—

(A) in paragraph (1), by inserting “or (3)” after “paragraph (2)”; and

(B) by adding at the end the following new paragraph:

“(3) In any action under this title by the participant or beneficiary against a fiduciary adviser for relief under section 409(c) in which the plaintiff prevails, the court shall allow a reasonable attorney's fee and costs of action to the prevailing plaintiff.”

(3) APPLICABILITY OF STATE FRAUD LAWS.—Section 514(b) of such Act (29 U.S.C. 1144(b)) is amended—

(A) by redesignating paragraph (9) as paragraph (10); and

(B) by inserting after paragraph (8) the following new paragraph:

“(9) Nothing in this title shall be construed to supersede any State action for fraud against a fiduciary adviser for any act or failure to act by the fiduciary adviser constituting a violation of section 409(c).”

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to advice referred to in section 3(21)(A)(ii) of the Employee Retirement Income Security Act of 1974 or section 4975(e)(3)(B) of the Internal Revenue Code of 1986 provided on or after January 1, 2002.

The SPEAKER pro tempore. Pursuant to House Resolution 288, the gentleman from New Jersey (Mr. ANDREWS) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this piece of legislation is about a person who is at the age of 30 or 40 in his or her life and starting to think about retirement, hopefully sooner than that, and they find they have a few thousand dollars in an account, in an IRA or a 401(k). They pick up the newspaper and they see wild fluctuations in the Dow Jones average, and they hear from some of their neighbors that they are doing great in their investments, and from others they are not doing so well; and they realize they need some help. They need some good sound advice as to what to do with this very crucial asset.

Both sides of this debate agree that the present situation is not very good; that the advice does come from people who are like Bob at the coffee shop, the friend of the gentleman from Ohio (Mr. BOEHNER), someone who is not really qualified, that people get advice through hearsay, and we think something should be done about that. The proposal the gentleman from New York (Mr. RANGEL) and myself are putting forward now, we think, is a more sensible way to address this need.

We think that when this individual goes to get advice as to what to do with his or her money, that there ought to be some choices of the advisor. We do not rule out the prospect of an advisor who has an interest in a fund that he or she is advising about. We do say, though, that if such advice is going to be given, if the person giving the advice has a vested interest in our hypothetical investor putting his or her money in one fund as opposed to

another, if there is a higher commission or some other gain that derives to that advisor, we say the following:

Each time a decision is made by the investor as to what to do, the advisor has to tell the investor in plain language, in plain math, in an understandable way what the nature of the advisor's interest is. The advisor has to say to the investor, You know, if you put your money in fund A instead of fund B, I make a little more money than I otherwise would, and you ought to know that before you make the decision.

Our substitute says that the person giving that advice must be qualified, and not most of the time but all of the time. The person giving the advice must have proper education. The person giving the advice must be part of a regulated industry, whether he or she is a broker or some other form of advisor. And if the person gives advice that is in violation of law, that is a violation of what we call the fiduciary duty, then the person must lose their license, and not most of the time, but all of the time, to make sure that the advisor is properly qualified.

Our substitute says that there must be some mechanism so that when our investor goes to ask for advice, and the advice may be given by a conflicted advisor, by someone having an interest in one or more of the funds, the employee should also be told that there is at least one other choice; that if they do not want to take advice from this person who has an interest in some of the funds that he or she is advising about, there is somewhere else that individual can go, to a person who has no interest whatsoever in the advice that he or she is giving. At least one other option on the menu so that the investor knows that there is somewhere else to go.

Finally, this substitute differs from the underlying bill because the substitute provides that if the advisor gives advice that is so bad that it is a violation of the law, so bad that it subverts and violates the fiduciary duty of that advisor, the investor can be made whole. He or she can get their pension money back, get back any lost profits or gains they would have had while they were waiting to get it back, and can get the cost of recovering those funds back in attorneys' fees as well. The investor does not have to wait for some bureaucracy in Washington to take action on his or her behalf; they do not have to hope that they can get represented in a case that is not worth very much money to an attorney, but worth an awful lot to them. They have the ability to be made whole.

The proposal that the gentleman from New York and I are putting forward provides for more advice for people who need it, but it does so in a way that is careful and it does so in a way that does not subvert and discard the 27-year history of the ERISA statute that has provided safer pensions and sounder investments for our citizens.

Mr. Speaker, I urge Members of both sides to consider this proposal, and I urge a “yes” vote on it.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. Does the gentleman from Ohio (Mr. BOEHNER) claim the time in opposition?

Mr. BOEHNER. Mr. Speaker, I am opposed to the amendment, and I do so claim the time.

The SPEAKER pro tempore. The gentleman from Ohio is recognized for 30 minutes.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I first want to thank the gentleman from New Jersey (Mr. ANDREWS) and the gentleman from New York (Mr. RANGEL) for the serious and hard work they have brought to our debate today. The entire process has been marked by bipartisan respect, and I am glad to see that is continuing today. I look forward to working with both my friends as this process continues.

Nonetheless, I must oppose their amendment because it falls into the trap of so overprotecting people from one set of dangers that, instead, we push them into another. If the Andrews-Rangel amendment were adopted, we could say that workers would never receive misleading or self-serving advice, but it is almost certain that they would not receive any advice at all. Despite my good friends' intentions, I believe the substitute would practically guarantee that no employers would provide investment advice at all to their workers.

First, the substitute unnecessarily intrudes upon an extensive and effective regulatory regime that protects investors who are paying for advice with their own money outside of an ERISA plan. In addition to this regulatory scheme, which includes banking, securities, insurance laws, regulations, and agencies at the Federal and State levels, the substitute requires Department of Labor qualitative oversight on computer models of advice, the substantive qualifications of financial advisors, and the adequacy of disclosure forms. Now, this not only creates overlapping and confusing jurisdiction between the Department of Labor and the Securities and Exchange Commission, it adds additional and unnecessary regulations to existing securities laws.

H.R. 2269, the underlying bill, seeks to reduce and streamline regulatory burdens on employers and financial advisors rather than to create additional rules and regulations. The new and unnecessary burdens created by the substitute will only drive up the cost of investment advice, discourage competition, and, in the end, mean that fewer numbers of American workers will ever get real investment advice.

The substitute also requires that if investment advice is offered, two investment advisors must be offered to plan participants. Employers have told us that this simply will not work.

When we are trying to make investment advice more accessible and affordable, I do not see any sense in driving up costs and compliance effort by, in effect, forcing employers to select and monitor two advisors instead of just one.

Finally, the substitute creates huge problems with ERISA's remedy structure and would subject employers to a stream of unfair and costly lawsuits by reversing the burden of proof and dramatically increasing ERISA's already intimidating remedies provisions. The substitute also erodes ERISA's careful preemption which gives employers legal certainty and clarity amongst our 50 States.

The underlying bill is meant to make very minor change to ERISA to allow employers to offer investment advice to their employees. H.R. 2269 works within the existing ERISA structure to do this without affecting ERISA's important protections or modifying the flexibility that courts have to fashion appropriate remedies within ERISA.

Amending ERISA's remedy structure will likely have unintended consequences on all ERISA claims. And before significantly changing ERISA's structure, we should look at the remedies offered in more detail. ERISA's current remedies structure permits courts to flexibly fashion appropriate remedies, including attorneys' fees, economic damages, disgorgement of profits, and banning advisors. Moreover, reversing the assumption of proof will not protect plan participants, but will only line the pockets of trial attorneys. So I urge my colleagues to vote against the substitutes for these reasons.

Put yourself in the place of an employer. Why would you offer investment advice to your workers if your litigation risks were so high that you might lose your entire business? Or in the place of an advisor, why would you even try to enter the investment advice market when, by doing so, would subject yourself to 50 different standards of litigation, 50 States under a standard of proof that guarantees you costly litigation, even if you have done nothing wrong?

H.R. 2269 effectively protects plan participants in a way that still makes employer-provided investment advice economically viable to employers and their employees. The fiduciary duty that it imposes on employers and advisers alike is the highest duty of loyalty in the law. Its disclosure requirements are actually more consumer friendly than the Andrews-Rangel substitute because it requires disclosure on an annual basis, or when there is a material change in disclosure. And it provides for the most vital consumer protection of all, a vibrant competitive marketplace, by opening the field to many of the most highly regarded investment advice firms in the country. The underlying bill reaches the right balance of increasing worker access to advice while safeguarding the interests

of the American workers without discouraging employers from offering any advice at all.

Mr. Speaker, the Andrews-Rangel substitute, I do not believe, will protect workers; and I do think it will discourage any employer from offering advice. This will not help workers that desperately need this kind of advice to try to increase their own retirement securities. So I urge my colleagues to oppose the substitute.

Mr. Speaker, I reserve the balance of my time.

Mr. ANDREWS. Mr. Speaker, I yield myself 30 seconds.

The liability provisions in this substitute do not impose new liability upon employers. What they do is impose new responsibility and liability upon advisors who breach their fiduciary duty.

And the employer-protection provisions in this substitute are essentially identical to those in the underlying bill.

Mr. Speaker, I yield 4 minutes to the gentleman from Washington (Mr. McDERMOTT), a member of the Committee on Ways and Means.

Mr. McDERMOTT. Mr. Speaker, I rise in support of the Andrews-Rangel substitute. I told a story earlier which sort of makes you wonder about why it is that the employee groups are not here saying this is such a good deal. Where is the AFL-CIO? Why are they not running in here? Why is the AARP not coming in here saying we want old folks to have this investment? Because the bill is not a good one, that is why.

Now, the substitute that has been offered, really deals with the four issues that we need to deal with: one is the disclosure of conflicts, and that has to be done in a way that people actually hear it and know what is going on. Under the disclosure requirements contained in this substitute, plan participants or beneficiaries under the plan would receive adequate disclosure of fees and other compensation that would be received by the advisor with respect to the product being recommended.

□ 1300

So they would know at the time they are getting this pitch, who is doing what.

Secondly, the qualification of advisors. We hear a lot of talk about banks are regulated. Yes, banks are regulated. But the fact is that under the Investors' Advisors Act, that is, the Federal law that controls advisors on money, banks are exempted. So all this talk about banks are regulated, blah, blah, blah, but not in this area. Our substitute closes that loophole.

Now, the ability to get some nonconflicted advice, investors should be able to have at least two, one that is selling something and someone who is not selling something.

The fourth area is the question of remedies. If someone sells us something, and most Americans do not

know what is going on in the stock market, if somebody says this is the thing to buy, and they know that it is about to take a dive, maybe they have even sold short. Who knows? I do not know that. Here is somebody that is gives me that advice. We close that possibility by the conflicted question, and then we give a remedy.

Mr. Speaker, to do any less than this is to say to people, yes, we are going to give Members another chance. Maybe Members can get it in the Senate or in the conference committee; or maybe we will pass a bill next year and fix this. This ought to be fixed right now. We have the opportunity. We know what the problems are.

We have the chairman suggesting he agrees with the gentleman from North Dakota (Mr. POMEROY). We should be able to do it. There is a real question here that we cannot do what we all agree from the chairman on down is the thing to do. I urge Members to vote for this Andrews-Rangel substitute, and then we will have a pretty good bill.

PERMISSION TO POSTPONE FURTHER CONSIDERATION OF H.R. 2269

Mr. FLETCHER. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 2269 pursuant to House Resolution 288, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker on this legislative day.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. FLETCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. SAM JOHNSON).

(Mr. SAM JOHNSON of Texas asked and was given permission to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, we talk about two advisors. I do not know how we keep both of them from being bad. As I mentioned, our measure removes the obstacles for employers to provide millions of workers professional investment advice.

The bill requires financial service providers to fully disclose their fees and any potential conflicts. In this bill's current form, we protect people from fly-by-night groups and scam artists looking to make a fast buck.

There are a number of safeguards that will protect workers and ensure that they receive investment advice on their 401(k) plans that is in their best interest. The pension fund managers at corporations and unions who make decisions about their defined benefit funds have access to professional portfolio managers. Now this bill will give rank and file the same protections.

The Democrat substitute will not help people. It will just add layers of bureaucracy and could prevent people from seeking advice. People value their

time, and they do not have time to seek and sift through paperwork and bureaucracy and two advisors. Importantly, our bill retains critical safeguards and includes new protections to guarantee that people receive sound investment advice. Since employees will work with a plan fiduciary advisor, people will be protected by State law, Federal law, as well as the SEC. People value their time, and they do not have time to sift through a whole bunch of new regulations. That is just wrong.

Mr. Speaker, I urge my colleagues to reject the Democrat substitute and pass H.R. 2269 the way it is.

Mr. ANDREWS. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

(Ms. WOOLSEY asked and was given permission to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, as I said earlier, H.R. 2269 is a prime example of how a good idea can become a bad bill. Is it a good idea to make investment advice available to employees at the work site? Of course it is. But it is a bad idea to allow self-interested advisors, those who could benefit from the advice given, into the workplace. That is exactly what H.R. 2269 does.

Currently ERISA prohibits investment advisors from coming to a workplace to provide employees with investment advice if there is any reason to think that the advisor might benefit from recommending one investment over another. We must remember that ERISA was enacted to protect workers from abuses related to their benefits.

With H.R. 2269, we will allow investment sales folks onto the work premises under the guise of the employers' endorsement without protecting the workers significantly, or at least enough to make sure that they are in good hands when they have heard the advice.

Fortunately, we have an alternative to H.R. 2269, and that is the Andrews substitute. We do not need to wait for employees to be bilked by some scam artist to make H.R. 2269. We can pass the Andrews amendment and then we have a good bill.

The Andrews substitute starts with the same good idea of bringing investment advisors to the workplace, but the Andrews substitute includes strict standards to protect employees from receiving tainted advice. The Andrews substitute requires meaningful disclosure of the advisors' affiliations in a way that is easily understandable to all employees, and it allows employees to meet with an independent advisor if there is a conflict of interest.

The Andrews substitute keeps the good idea of making investment advice available to employees at the workplace, but it builds on the protections in current laws that employees need and must depend on. The Andrews substitute is a win-win for employees, and I urge my colleagues to support it as the correct and safe way to provide investment advice at the workplace.

Mr. FLETCHER. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. BALLENGER).

Mr. BALLENGER. Mr. Speaker, as an employer with employees who have 401(k) plans back home, I am pleased that the House is voting on a bill to ensure professional investment advice for rank-and-file workers and their individual needs.

I urge my colleagues to reject the Andrews-Rangel substitute which would, in fact, reduce the number of employers and financial advisors willing to offer their advice to employees. This is just the opposite of what the worker needs at a time when they are nervous about their retirement assets. It is just more government regulation.

The substitute is bad because it increases the cost for advisory services by requiring two fiduciary advisors as options. It undermines the current ERISA remedies, and erodes the preemption statute, and adds more Federal regulation in areas already regulated by Federal and State entities, areas in which the Department of Labor has no expertise. And it reverses the burden of proof in lawsuits against employers and financial advisors which surely will attract our friends, the trial lawyers. It will reduce the number of employers that are willing to have a 401(k) plan.

Mr. Speaker, it is important that my colleagues support the bipartisan Boehner bill endorsed by Labor, Commerce, Department of Treasury, along with the National Association of Manufacturers and the National Rural Electric Coop. These groups speak for a great many of the employers and employees in my district, and I support the Boehner bill as a much-needed update of the current law.

This bill gives protection and access to today's employees who seek investment advice to maximize their retirement savings. The primary focus of this act is to give participants advice solely in their best interest. The bill achieves this by including strict disclosure requirements, with sanctions, to inform plan participants about any potential fees or conflicts of interest in what average investors have today.

Most important, workers will have full control over their investment decisions. I urge the House to reject the substitute amendment and pass the Boehner bill today.

Mr. ANDREWS. Mr. Speaker, I reserve the balance of my time.

Mr. FLETCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. ISAKSON).

Mr. ISAKSON. Mr. Speaker, the intentions of the gentleman from New Jersey (Mr. ANDREWS) in the substitute are as noble as the intentions of the authors of the underlying bill, but I happen to favor the underlying bill for a couple of reasons that, hopefully, Members will listen closely to.

To be against the underlying bill and for the substitute, Members have to presume we cannot trust employees or

IRA-SEP beneficiaries, independent contractors, to have information and then make a decision.

Secondly, and most importantly, Members need to understand that most Americans today, unlike 25 years ago, are going to need to depend on 401(k)s, IRA-SEPs or other self-directed plans for their retirement. I ran as a trustee of a 401(k) plan for my company for 22 years, offered an IRA-SEP plan for the 800 contractors we had.

I understand the firewall that prohibits the employer from giving any advice and the limited amount of advice that becomes accessible to either IRA-SEP or 401(k) beneficiaries.

It is wrong to presume that an employer would intentionally, willfully or wantfully allow bad advice to come to their employees. To the contrary, it is the security blanket which binds those people to the company. In this time when we are needing the best information possible, we should trust our employees to be able to allow access for their employees and independent contractors to credible, competent financial advice.

In the substitute, Members trust the Department of Labor to determine who can give the right advice. In the underlying bill, Members trust the employer, whose most valued asset is their employees, to be able to offer credible advice through advisors to their employees and independent contractors.

Mr. Speaker, I urge Members to adopt the underlying bill and reject the substitute.

Mr. FLETCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. SOUDER).

(Mr. SOUDER asked and was given permission to revise and extend his remarks.)

Mr. SOUDER. Mr. Speaker, I rise in opposition to the motion to recommit of the gentleman from New Jersey (Mr. ANDREWS). I understand some of his concerns and share some of the gentleman's concerns, but I wanted to speak because overall this is a very strong bill. It is one that we need to pass.

I believe that some of the comments that have been made here in this debate have been inappropriate and indeed anticapitalist and antibusiness. To argue that workers should not get financial advice or to argue that businesses are somehow going to trick their employees or bring in charlatans is in many ways beyond the pale of debate here in Congress.

Quite frankly, some advice may be bad; but much of the advice out in the financial world is bad right now. Employees, at present, can go to the Internet and get all sorts of mail at home that has no anchor. No employer is completely infallible. No employer can bring in somebody who is going to give perfect advice that everybody is going to get rich from.

□ 1315

But I would say that most employers in America are not like Samuel Insull from the 1900s. Give me a break.

Most employers know that if they brought in somebody with a conflict of interest, that would be out there and informed at their plant immediately. If they had somebody who was a charlatan ripping off, you would have all sorts of contract negotiation problems, not to mention that if it is a smaller company that is not unionized, the people probably have their kids go to school in the same place, they eat in the same restaurants, they live in the same town. To imply that employers are somehow likely to want to rip off their employees or give them bad advice at a time when this would be a way to help them and improve their relations with their own workforce is absurd.

The problem is that our law is arcane. It has been out of date for a number of years. As more and more employees in America have flexibility, they need to have the same advice that the management is getting, that the business leaders are getting and we should not discriminate against employees.

Mr. ANDREWS. Mr. Speaker, I yield 2½ minutes to the gentleman from Tennessee (Mr. FORD).

Mr. FORD. Mr. Speaker, I am a little disappointed that we are actually in the midst of having this debate today before actually completing work on an aviation security bill and before completing work on a stimulus package for people all across this great Nation. Hopefully, the encouraging news we have heard today about progress being made on that bill will not only give assurance or perhaps provide a vehicle for us to pass something before we leave here but provide the American people with some comfort as they prepare to travel on the busiest holiday of the year.

I rise today, Mr. Speaker, with a lot of disappointment about the package that has come before the House and with great concern. I rise to support the gentleman from New Jersey (Mr. ANDREWS), who has worked so tirelessly with Members on both sides of the aisle to find some sort of agreement acceptable, one that would balance the needs of advisors with investors. I might add that the Andrews substitute achieves the twin goals of investor education and choice far better than the base bill. The substitute offered by the gentleman from New Jersey presents the best opportunity, particularly in my eyes and I am sure many even on the other side, to achieve these goals.

First, the Andrews substitute would ensure that individuals were aware of all potential conflicts by requiring that the disclosure be contemporaneous with each occasion on which advice is rendered, something all of us should be for. Although most advisors would act professionally and be up front, as we would say, this provision would prevent an unscrupulous firm from burying one line of disclosure boiler plate in a 10-page document filled with legalese.

Second, the substitute would ensure that the advice is provided by qualified, licensed and regulated professionals. This provision would simply ensure that the advice is at least as good as they promised it to be. I have heard my friends on the other side talk about this, and why we do not guarantee this and mandate this is beyond me.

Finally, as the gentleman from New Jersey said so well in his opening statement, the substitute empowers consumers to make a choice should they determine that a potential conflict necessitates declining that advice, meaning, as the gentleman from New Jersey said, that the advisor would have to consent to providing the investor a different advisor if he or she so chose.

Any Member with misgivings about the scope of this bill should carefully consider the serious implications uncovered in a series of hearings held this past year. I would urge a "yes" vote on the substitute. I have not made my mind up on final passage, but I would certainly urge a "yes" vote on the Andrews substitute.

Mr. ANDREWS. Mr. Speaker, I yield myself such time as I may consume.

The arguments we have heard against the substitute that the gentleman from New York (Mr. RANGEL) and I have put forward essentially boil down to two arguments: one is that employers would get sued if the substitute were adopted; and the second is that investment advice would be too expensive for investment advice firms to give if the substitute were adopted. Each of these arguments is incorrect.

Liability protection provisions in this substitute are essentially identical for employers as those that are in the base bill. If an employer does not engage in any independent act of negligence or illegality, the employer is not liable under the substitute, as is the case in the base bill. In fact, the substitute adds provisions, adds protections to employers which do not exist under present law to provide a safe harbor for employers who hire investment advisors. So the argument that this somehow is going to unleash a flood of litigation against employers is reminiscent of the similar false point made under the patients' bill of rights debate and it is equally wrong.

The second argument that somehow or another the expense that is going to be imposed upon advisor firms is going to preclude them from giving advice is equally wrong. It is not very expensive to tell an employee that there is somewhere else he or she can go to get advice. It took me about 4 seconds to say it. It would not take much longer for the advisor to say it, either. It is not very expensive to say to an investor that before you put your money in this fund, you ought to know that I as your advisor make more money if you put the money in the fund than if you do not. It took me about 4 seconds to say it, and it would take about 4 seconds

for the advisor to say it as well. The additional cost that would be imposed upon investment advice firms I am sure would be gladly borne by those firms in order to win the commissions which they rightfully earn by giving the advice in the first place.

Our substitute, I believe, covers the key grounds. It says that a conflicted advisor must give full, timely and understandable disclosure. It says that every person giving advice, not most people giving advice but every person giving advice must be duly qualified and accountable to lose his or her license if they breach their fiduciary duty.

It says that every person receiving advice from a conflicted advisor must know that there are other choices to whom the person can turn that are not conflicted. And it says that if a fiduciary duty is breached, if bad advice is given and a pensioner or worker suffers, there is somewhere to go to be made whole, not to get back most of what you lost or some of what you lost but to get back all of what you lost if your advisor has broken the law.

Our substitute deserves the support of Members on both sides of the aisle. We respectfully ask its adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. FLETCHER. Mr. Speaker, I yield myself such time as I may consume.

As we come to the close of this debate on the substitute, certainly we appreciate the work of the gentleman from New Jersey and the, I think, attempt to certainly make sure that we protect workers as they get advice on their investments.

As we have seen over the last number of years, and as I recall owning a business and providing retirement plans for my employees, there has been a substantial shift from what we call defined benefits to defined contributions, to the 401(k)s and 403(b)s and other such accounts. It becomes imperative with that shift that we allow advice to be made to the employees and that we do it in such a way where it is efficient, where it does not drive up the administrative cost, and where the employees can be assured that there is the appropriate accountability.

The gentleman from Ohio (Mr. BOEHNER), the chairman of this committee, has worked for over 6 years; and I think he has put together an excellent, balanced bill which meets those requirements. It certainly provides an ability for employers to continue to offer good retirement plans of the defined contribution sort. It also provides the ability for them to offer advice so that their employees can make the best investment and have the most money when they retire at the end of their work livelihood. It additionally provides for great accountability. There is a disclosure that must be made if there are conflicts of interest.

I think the difference we see between these two bills is the balance, of how

much are we going to go toward trying to, what I would say build a box that is padded so no one gets themselves bruised. In a world where we have freedom here, people are going to make mistakes. That is part of what freedom is about. How much are we going to restrict that freedom in order to try to make sure that we protect individuals? There needs to be a balance that is struck, and I think the substitute goes too far. It does not allow the freedom that will encourage businesses to offer the kind of advice that is needed. It will restrict in the long run the ability, and there are differences in the liability sections, there are some very vague portions here where the liability not only to the fiduciary advisor but, as it says on page 33, or any other party with respect to whom a material affiliation or contractual relationship of the fiduciary advisor resulted in a violation of that section, certainly that could include, in the vagueness of it, the employer and possibly any other person. So I think it does open up a substantial liability and some vagueness which makes that liability unpredictable. The bill we are looking at, the base bill, has strong accountability.

When you talk about getting advice from someone, I was even thinking that all the advice that we get in whatever purchases we make, and I go back to the individual who offers me advice on buying suits, a guy named Harlan Logan. He is in Lexington, Kentucky. I know every suit I buy from Harlan Logan, he is going to make money. He should make money. He should be able to make a good, honest living for doing what he says. But that does not keep him from giving me good advice on what he is saying to me, and that is clearly disclosed. In the bill we have here, that conflict of interest, as you call it, is disclosed. It is disclosed at request. It is mandated to be disclosed on an annual basis initially and if there are any significant changes.

I think the substitute bill here, the amendment, really impedes the ability of employers to do what the purpose of this bill intends to do and that is provide employees with good advice and to make sure that they have a good retirement plan.

I would encourage Members to vote against that bill.

Mr. Speaker, I yield the balance of my time to the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. I thank the gentleman for yielding time.

Mr. Speaker, I want to thank the gentleman from Kentucky (Mr. FLETCHER) for his work on this bill and the gentleman from Texas (Mr. SAM JOHNSON) and all of the work that they have put into it over the last several years. I want to thank the gentleman from New Jersey (Mr. ANDREWS), who has worked closely with me as we have developed this bill. Obviously it does not have as many protections as he would like at this point in time. But as I have pledged to him over the years,

we will continue to work through this process.

We have got a strong bipartisan bill. We have added new protections or at least have an agreement to add some additional protections based on a colloquy I had with the gentleman from North Dakota (Mr. POMEROY). But I think all of us know that the substitute that we have before us just goes way too far. While it is well meaning and well intended, expanding litigation in our country is not going to create an environment for employers or their advisors to want to give investment advice which I believe the substitute does. The extra regulatory burdens that are contained in the substitute will again discourage employers and their advisors from engaging in making sure that the American workers get the kind of investment advice they need if they are going to increase their retirement security.

Why is this investment advice so sorely needed? Because we have got all kinds of problems out there, with people who are underinvested in their self-directed accounts, having their money in low-yield instruments for long periods of time when we know that over a course of 10, 20, 30 years, equities would provide a much greater return and much greater retirement security.

On the other end of the spectrum, we know that we have got employees who are overinvested in one sector or another and we have seen this happen, especially in the technology sector, when people were overinvested in that industry and what has happened to their self-directed accounts over the last 18 months to 2 years.

□ 1330

So we know investment advice is necessary.

We heard the gentleman from Kentucky (Mr. FLETCHER) talk about the advice that he got from his tailor. Let us say that an employee today outside of his employment with his own savings, his or her own money, if they want to go to a broker, a mutual fund, and they ask for advice, guess what? They get all kinds of advice. Why? Because outside of ERISA, outside of an employer-provided plan, there is plenty of advice.

What we are trying to do here is make sure that those same employees within the employer plan have the same kind of access to that advice that they have outside of the employer's plan.

So, Mr. Speaker, I would ask my colleagues to vote no on the Andrews-Rangel substitute and to support final passage.

Mr. FLETCHER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 288, the previous question is ordered on the bill, as amended, and on the amendment offered by the gentleman from New Jersey (Mr. ANDREWS).

Pursuant to the previous order of the House, further consideration of the bill is postponed.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with amendments a bill of the House of the following title:

H.R. 2540. An act to amend title 38, United States Code, to make various improvements to veterans benefits programs under laws administered by the Secretary of Veterans Affairs, and for other purposes.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 162

Mr. BONILLA (during debate on H.R. 2269). Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 162.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 1 o'clock and 30 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1439

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LAHOOD) at 2 o'clock and 39 minutes p.m.

RETIREMENT SECURITY ADVICE ACT OF 2001

The SPEAKER pro tempore. Pursuant to the previous order of the House, proceedings will now resume on the bill, H.R. 2269.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from New Jersey (Mr. ANDREWS).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ANDREWS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 180, nays 243, not voting 9, as follows:

[Roll No. 441]

YEAS—180

Abercrombie	Hilliard	Nadler
Ackerman	Hinchey	Napolitano
Allen	Hinojosa	Neal
Andrews	Hoeffel	Oberstar
Baca	Holden	Obey
Baldacci	Holt	Olver
Baldwin	Honda	Ortiz
Barcia	Hookey	Owens
Barrett	Hoyer	Pallone
Berkley	Inslee	Pascarell
Berman	Israel	Pastor
Berry	Jackson (IL)	Payne
Bishop	Jackson-Lee	Pelosi
Blagojevich	(TX)	Peterson (MN)
Blumenauer	Jefferson	Price (NC)
Bonior	Johnson, E. B.	Rahall
Borski	Jones (OH)	Rangel
Boswell	Kanjorski	Reyes
Boucher	Kaptur	Rivers
Brady (PA)	Kennedy (RI)	Rodriguez
Brown (FL)	Kildee	Roemer
Brown (OH)	Kilpatrick	Ross
Capps	Kind (WI)	Rothman
Capuano	Kleczka	Roybal-Allard
Carson (IN)	Kucinich	Rush
Carson (OK)	LaFalce	Sabo
Clay	Lampson	Sanchez
Clayton	Langevin	Sanders
Clyburn	Lantos	Sandlin
Condit	Lee	Sawyer
Conyers	Levin	Schakowsky
Costello	Lewis (GA)	Schiff
Coyne	Lipinski	Scott
Crowley	Lofgren	Serrano
Cummings	Lowey	Sherman
Davis (IL)	Luther	Shows
DeFazio	Lynch	Slaughter
DeGette	Maloney (CT)	Solis
Delahunt	Maloney (NY)	Spratt
DeLauro	Markey	Stark
Deutsch	Mascara	Strickland
Dicks	Matsui	Stupak
Dingell	McCarthy (MO)	Tauscher
Doggett	McCarthy (NY)	Thompson (MS)
Doyle	McCollum	Thurman
Edwards	McDermott	Tierney
Engel	McGovern	Towns
Eshoo	McIntyre	Turner
Etheridge	McKinney	Udall (CO)
Evans	McNulty	Udall (NM)
Farr	Meehan	Velazquez
Fattah	Meek (FL)	Visclosky
Filner	Menendez	Waters
Ford	Millender	Watson (CA)
Frank	McDonald	Watt (NC)
Frost	Miller, George	Waxman
Gephardt	Mink	Weiner
Gonzalez	Mollohan	Wexler
Green (TX)	Moore	Woolsey
Gutierrez	Moran (VA)	Wynn
Harman	Murtha	

NAYS—243

Aderholt	Callahan	DeLay
Akin	Calvert	DeMint
Armey	Camp	Diaz-Balart
Bachus	Cannon	Dooley
Baird	Cantor	Doolittle
Baker	Capito	Dreier
Ballenger	Cardin	Duncan
Barr	Castle	Dunn
Bartlett	Chabot	Ehlers
Bass	Chambliss	Ehrlich
Bentsen	Clement	Emerson
Bereuter	Coble	English
Biggert	Collins	Everett
Bilirakis	Combest	Ferguson
Blunt	Cooksey	Flake
Boehlert	Cox	Fletcher
Boehner	Cramer	Foley
Bonilla	Crane	Forbes
Bono	Crenshaw	Fossella
Boyd	Culberson	Frelinghuysen
Brady (TX)	Cunningham	Gallegly
Brown (SC)	Davis (CA)	Gekas
Bryant	Davis (FL)	Gibbons
Burr	Davis, Jo Ann	Gilchrist
Burton	Davis, Tom	Gillmor
Buyer	Deal	Gilman

Goode	LoBiondo	Schrock
Goodlatte	Lucas (KY)	Sensenbrenner
Gordon	Lucas (OK)	Sessions
Goss	Manzullo	Shadegg
Graham	Matheson	Shaw
Granger	McCrery	Shays
Graves	McHugh	Sherwood
Green (WI)	McInnis	Shimkus
Greenwood	McKeon	Shuster
Grucci	Mica	Simmons
Gutknecht	Miller, Dan	Simpson
Hall (TX)	Miller, Gary	Skeen
Hansen	Miller, Jeff	Skelton
Hart	Moran (KS)	Smith (MI)
Hastings (WA)	Morella	Smith (NJ)
Hayes	Myrick	Smith (TX)
Hayworth	Nethercutt	Smith (WA)
Hefley	Ney	Snyder
Herger	Northup	Souder
Hill	Norwood	Stearns
Hilleary	Nussle	Stenholm
Hobson	Osborne	Stump
Hoekstra	Ose	Sununu
Horn	Otter	Sweeney
Hostettler	Oxley	Tancredo
Houghton	Paul	Tanner
Hulshof	Pence	Tauzin
Hunter	Peterson (PA)	Taylor (MS)
Hyde	Petri	Taylor (NC)
Isakson	Phelps	Terry
Issa	Pickering	Thomas
Istook	Pitts	Thompson (CA)
Jenkins	Platts	Thornberry
John	Pomboy	Thune
Johnson (CT)	Portman	Tiahrt
Johnson (IL)	Pryce (OH)	Tiberi
Johnson, Sam	Putnam	Toomey
Jones (NC)	Quinn	Traficant
Kelly	Radanovich	Upton
Kennedy (MN)	Ramstad	Vitter
Kerns	Regula	Walden
King (NY)	Rehberg	Walsh
Kingston	Reynolds	Wamp
Kirk	Riley	Watkins (OK)
Knollenberg	Rogers (KY)	Watts (OK)
Kolbe	Rogers (MI)	Weldon (FL)
LaHood	Rohrabacher	Weldon (PA)
Larsen (WA)	Ros-Lehtinen	Weller
Larson (CT)	Roukema	Whitfield
Latham	Royce	Wicker
LaTourette	Ryan (WI)	Wilson
Leach	Ryun (KS)	Wolf
Lewis (CA)	Saxton	Wu
Lewis (KY)	Schaffer	Young (AK)
Linder		Young (FL)

NOT VOTING—9

Barton	Ganske	Keller
Becerra	Hall (OH)	Largent
Cubin	Hastings (FL)	Meeks (NY)

□ 1501

Mr. NEY changed his vote from “yea” to “nay.”

Mr. DICKS and Ms. MCKINNEY changed their vote from “nay” to “yea.”

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BOEHNER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This vote will be followed by three 5-minute votes.

The vote was taken by electronic device, and there were—ayes 280, noes 144, not voting 8, as follows:

[Roll No. 442]

AYES—280

Aderholt	Granger	Peterson (MN)
Akin	Graves	Peterson (PA)
Armey	Green (WI)	Petri
Bachus	Greenwood	Pickering
Baird	Grucci	Pitts
Baker	Gutknecht	Platts
Ballenger	Hall (TX)	Pomboy
Barcia	Hansen	Pomeroy
Barr	Harman	Portman
Bartlett	Hart	Pryce (OH)
Bass	Hastings (WA)	Putnam
Bentsen	Hayes	Quinn
Bereuter	Hayworth	Radanovich
Berry	Hefley	Ramstad
Biggert	Herger	Regula
Bilirakis	Hill	Rehberg
Blumenauer	Hilleary	Reyes
Blunt	Hinojosa	Reynolds
Boehlert	Hobson	Riley
Boehner	Hoekstra	Roemer
Bonilla	Holt	Rogers (KY)
Bono	Hookey	Rogers (MI)
Boswell	Horn	Rohrabacher
Boyd	Hostettler	Ros-Lehtinen
Brady (TX)	Houghton	Roukema
Brown (SC)	Hulshof	Royce
Bryant	Hunter	Ryan (WI)
Burton	Hyde	Ryun (KS)
Buyer	Inslee	Sabo
Callahan	Isakson	Sanchez
Calvert	Israel	Sandlin
Camp	Issa	Saxton
Cannon	Istook	Schaffer
Cantor	Jenkins	Schiff
Capito	John	Schrock
Carson (OK)	Johnson (CT)	Sensenbrenner
Castle	Johnson (IL)	Sessions
Chabot	Johnson, Sam	Shadegg
Chambliss	Jones (NC)	Shaw
Clement	Kennedy (MN)	Shays
Coble	Kerns	Sherman
Collins	Kind (WI)	Sherwood
Combest	King (NY)	Shimkus
Condit	Kingston	Shuster
Cooksey	Kirk	Simmons
Cox	Knollenberg	Simpson
Cramer	Kolbe	Skeen
Crane	LaHood	Skelton
Crenshaw	Larsen (WA)	Smith (MI)
Crowley	Larson (CT)	Smith (NJ)
Culberson	Latham	Smith (TX)
Cunningham	LaTourette	Smith (WA)
Davis (CA)	Leach	Snyder
Davis (FL)	Lewis (CA)	Souder
Davis, Jo Ann	Lewis (KY)	Stearns
Davis, Tom	Linder	Stenholm
Deal	LoBiondo	Stump
DeLay	Lucas (KY)	Sununu
DeMint	Lucas (OK)	Sweeney
Diaz-Balart	Maloney (CT)	Tancredo
Dicks	Maloney (NY)	Tanner
Dooley	Manzullo	Tauscher
Doolittle	Matheson	Tauzin
Dreier	Matsui	Taylor (MS)
Duncan	McCarthy (MO)	Taylor (NC)
Dunn	McCarthy (NY)	Terry
Ehlers	McCrery	Thomas
Ehrlich	McHugh	Thompson (CA)
Emerson	McInnis	Thornberry
English	McIntyre	Thune
Everett	McKeon	Tiahrt
Ferguson	Mica	Tiberi
Flake	Miller, Dan	Toomey
Fletcher	Miller, Gary	Traficant
Foley	Miller, Jeff	Turner
Forbes	Moore	Upton
Ford	Moran (KS)	Vitter
Fossella	Moran (VA)	Walden
Frelinghuysen	Morella	Walsh
Frost	Myrick	Wamp
Gallegly	Neal	Watkins (OK)
Ganske	Nethercutt	Watts (OK)
Gekas	Ney	Weldon (FL)
Gibbons	Northup	Weldon (PA)
Gilchrist	Norwood	Weller
Gillmor	Nussle	Whitfield
Gilman	Ortiz	Wicker
Gonzalez	Osborne	Wilson
Goode	Ose	Wolf
Goodlatte	Otter	Wu
Gordon	Oxley	Young (AK)
Goss	Paul	Young (FL)
Graham	Pence	

NOES—144

Abercrombie	Gutierrez	Napolitano
Ackerman	Hilliard	Oberstar
Allen	Hinchey	Obey
Andrews	Hoeffel	Oliver
Baca	Holden	Owens
Baldacci	Honda	Pallone
Baldwin	Hoyer	Pascarell
Barrett	Jackson (IL)	Pastor
Berkley	Jackson-Lee	Payne
Berman	(TX)	Pelosi
Bishop	Jefferson	Phelps
Blagojevich	Johnson, E. B.	Price (NC)
Bonior	Jones (OH)	Rahall
Borski	Kanjorski	Rangel
Boucher	Kaptur	Rivers
Brady (PA)	Kennedy (RI)	Rodriguez
Brown (FL)	Kildee	Ross
Brown (OH)	Kilpatrick	Rothman
Capps	Klecza	Roybal-Allard
Capuano	Kucinich	Rush
Cardin	LaFalce	Sanders
Carson (IN)	Lampson	Sawyer
Clay	Langevin	Schakowsky
Clayton	Lantos	Scott
Clyburn	Lee	Serrano
Conyers	Levin	Shows
Costello	Lewis (GA)	Slaughter
Coyne	Lipinski	Solis
Cummings	Lofgren	Spratt
Davis (IL)	Lowey	Stark
DeFazio	Luther	Strickland
DeGette	Lynch	Stupak
Delahunt	Markey	Thompson (MS)
DeLauro	Mascara	Thurman
Deutsch	McCollum	Tierney
Dingell	McDermott	Towns
Doggett	McGovern	Udall (CO)
Doyle	McKinney	Udall (NM)
Edwards	McNulty	Velazquez
Engel	Meehan	Visclosky
Eshoo	Meek (FL)	Waters
Etheridge	Menendez	Watson (CA)
Evans	Millender-	Watt (NC)
Farr	McDonald	Waxman
Fattah	Miller, George	Weiner
Filner	Mink	Wexler
Frank	Mollohan	Woolsey
Gephardt	Murtha	Wynn
Green (TX)	Nadler	

NOT VOTING—8

Barton	Hall (OH)	Largent
Becerra	Hastings (FL)	Meeks (NY)
Cubin	Keller	

□ 1518

Mr. LYNCH changed his vote from “aye” to “no.”

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to clause 8 of rule XX, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed on Tuesday, November 13, 2001, in the order in which that motion was entertained.

Votes will be taken in the following order:

House Concurrent Resolution 228, by the yeas and nays;

H.R. 2887, by the yeas and nays;

House Concurrent Resolution 239, by the yeas and nays.

PUT OUR CHILDREN FIRST
RESOLUTION OF 2001

The SPEAKER pro tempore. The unfinished business is the question of sus-

pending the rules and agreeing to the concurrent resolution, H. Con. Res. 228, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HERGER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 228, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 418, nays 0, not voting 14, as follows:

[Roll No. 443]

YEAS—418

Abercrombie	Crane	Harman
Ackerman	Crenshaw	Hart
Aderholt	Crowley	Hastings (WA)
Akin	Culberson	Hayes
Allen	Cummings	Hayworth
Andrews	Hefley	Hefley
Armey	Davis (CA)	Herger
Baca	Davis (FL)	Hill
Bachus	Davis (IL)	Hilleary
Baird	Davis, Jo Ann	Hillard
Baker	Davis, Tom	Hinches
Baldacci	Deal	Hinojosa
Baldwin	DeFazio	Hobson
Ballenger	DeGette	Hoeffel
Barcia	Delahunt	Hoekstra
Barr	DeLauro	Holden
Barrett	DeLay	Holt
Bartlett	DeMint	Honda
Bass	Deutsch	Hooley
Bentsen	Diaz-Balart	Horn
Bereuter	Dicks	Hostettler
Berkley	Dingell	Houghton
Berman	Doggett	Hoyer
Berry	Dooley	Hulshof
Biggert	Doolittle	Hunter
Bilirakis	Doyle	Hyde
Bishop	Dreier	Inslee
Blagojevich	Duncan	Isakson
Blumenauer	Dunn	Israel
Blunt	Edwards	Issa
Boehlert	Ehlers	Istook
Boehner	Ehrlich	Jackson (IL)
Bonilla	Emerson	Jackson-Lee
Bonior	Engel	(TX)
Bono	English	Jefferson
Borski	Eshoo	Jenkins
Boswell	Etheridge	John
Boucher	Evans	Johnson (CT)
Boyd	Everett	Johnson (IL)
Brady (PA)	Farr	Johnson, E. B.
Brady (TX)	Fattah	Johnson, Sam
Brown (FL)	Ferguson	Jones (NC)
Brown (OH)	Filner	Jones (OH)
Brown (SC)	Flake	Kanjorski
Bryant	Fletcher	Kaptur
Burr	Foley	Kelly
Burton	Forbes	Kennedy (MN)
Buyer	Fossella	Kennedy (RI)
Callahan	Frank	Kerns
Calvert	Frelinghuysen	Kildee
Camp	Frost	Kilpatrick
Cannon	Gallegly	Kind (WI)
Cantor	Ganske	King (NY)
Capito	Gekas	Kingston
Capps	Gephardt	Klecza
Capuano	Gibbons	Knollenberg
Cardin	Gilchrest	Kolbe
Carson (IN)	Gillmor	Kucinich
Carson (OK)	Gilman	LaFalce
Castle	Gonzalez	LaHood
Chabot	Goode	Lampson
Chambliss	Goodlatte	Langevin
Clay	Gordon	Lantos
Clayton	Goss	Larsen (WA)
Clement	Graham	Larson (CT)
Clyburn	Granger	Latham
Coble	Graves	LaTourette
Collins	Green (TX)	Leach
Combest	Green (WI)	Lee
Condit	Greenwood	Levin
Conyers	Grucci	Lewis (CA)
Cooksey	Gutierrez	Lewis (GA)
Costello	Gutknecht	Lewis (KY)
Coyne	Hall (TX)	Linder
Cramer	Hansen	Lipinski

LoBiondo	Pelosi	Smith (MI)
Lofgren	Pence	Smith (NJ)
Lowey	Peterson (MN)	Smith (TX)
Lucas (KY)	Peterson (PA)	Smith (WA)
Lucas (OK)	Petri	Snyder
Luther	Phelps	Solis
Lynch	Pickering	Souder
Maloney (CT)	Pitts	Spratt
Maloney (NY)	Platts	Stark
Manzullo	Pombo	Stearns
Markey	Pomeroy	Stenholm
Mascara	Portman	Strickland
Matheson	Price (NC)	Stump
Matsui	Pryce (OH)	Stupak
McCarthy (MO)	Putnam	Sununu
McCarthy (NY)	Quinn	Sweeney
McCollum	Radanovich	Tancred
McDermott	Rahall	Tanner
McGovern	Ramstad	Tauscher
McHugh	Rangel	Tauzin
McInnis	Regula	Taylor (MS)
McIntyre	Rehberg	Taylor (NC)
McKeon	Reyes	Terry
McKinney	Reynolds	Thomas
McNulty	Riley	Thompson (CA)
Meehan	Rivers	Thompson (MS)
Meek (FL)	Rodriguez	Thornberry
Menendez	Roemer	Thune
Mica	Rogers (KY)	Thurman
Millender-	Rogers (MI)	Tiahrt
McDonald	Rohrabacher	Tiberi
Miller, Dan	Ros-Lehtinen	Tierney
Miller, Gary	Ross	Toomey
Miller, George	Rothman	Towns
Miller, Jeff	Roukema	Trafficant
Mink	Roybal-Allard	Turner
Mollohan	Rush	Udall (CO)
Moore	Ryan (WI)	Udall (NM)
Moran (KS)	Ryun (KS)	Upton
Moran (VA)	Sabo	Velazquez
Morella	Sanchez	Visclosky
Murtha	Sanders	Vitter
Myrick	Sandlin	Walden
Nadler	Sawyer	Walsh
Napolitano	Saxton	Wamp
Neal	Schaffer	Waters
Nethercutt	Schakowsky	Watkins (OK)
Ney	Schiff	Watson (CA)
Northup	Schrock	Watt (NC)
Norwood	Scott	Watts (OK)
Nussle	Sensenbrenner	Waxman
Oberstar	Serrano	Weiner
Obey	Sessions	Weldon (FL)
Olver	Shadegg	Weldon (PA)
Ortiz	Shaw	Weller
Osborne	Shays	Wexler
Ose	Sherman	Whitfield
Otter	Sherwood	Wicker
Owens	Shimkus	Wilson
Oxley	Shows	Wolf
Pallone	Shuster	Woolsey
Pascarell	Simpson	Wu
Pastor	Skeen	Wynn
Paul	Skelton	Young (AK)
Payne	Slaughter	Young (FL)

NOT VOTING—14

Barton	Hall (OH)	McCrery
Becerra	Hastings (FL)	Meeks (NY)
Cox	Keller	Royce
Cubin	Kirk	Simmons
Ford	Largent	

□ 1526

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title was amended so as to read: “Concurrent resolution expressing the sense of the Congress that the children who lost 1 or both parents or a guardian in the September 11, 2001, World Trade Center and Pentagon tragedies (including the aircraft crash in Somerset County, Pennsylvania) should be provided with all necessary assistance, services, and benefits and urging Federal, State or local agencies responsible for providing such assistance, services and benefits to move expeditiously in providing such assistance,

services and benefits to those children.”.

A motion to reconsider was laid on the table.

BEST PHARMACEUTICALS FOR CHILDREN ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 2887, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. TAUZIN) that the House suspend the rules and pass the bill, H.R. 2887, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 338, nays 86, not voting 8, as follows:

[Roll No. 444]

YEAS—338

Ackerman	Davis, Jo Ann	Hinchey
Aderholt	Davis, Tom	Hinojosa
Akin	Deal	Hobson
Armey	DeGette	Hoeffel
Baca	Delahunt	Hoekstra
Bachus	DeLauro	Holden
Baker	DeLay	Holt
Ballenger	DeMint	Honda
Barr	Diaz-Balart	Hooley
Bartlett	Dicks	Horn
Bass	Dooley	Hostettler
Bentsen	Doolittle	Houghton
Bereuter	Dreier	Hoyer
Berkley	Duncan	Hulshof
Biggert	Dunn	Hunter
Bilirakis	Edwards	Hyde
Bishop	Ehlers	Isakson
Blunt	Ehrlich	Israel
Boehlert	Engel	Issa
Boehner	English	Istook
Bonilla	Eshoo	Jackson-Lee
Bono	Etheridge	(TX)
Borski	Everett	Jefferson
Boswell	Farr	Jenkins
Boucher	Fattah	John
Boyd	Ferguson	Johnson (CT)
Brady (PA)	Flake	Johnson (IL)
Brady (TX)	Fletcher	Johnson, E. B.
Brown (FL)	Foley	Johnson, Sam
Brown (SC)	Forbes	Jones (NC)
Bryant	Ford	Kanjorski
Burr	Fossella	Kelly
Burton	Frelinghuysen	Kennedy (MN)
Buyer	Frost	Kerns
Callahan	Gallegly	King (NY)
Calvert	Ganske	Kingston
Camp	Gekas	Kirk
Cannon	Gephardt	Kleczka
Cantor	Gibbons	Knollenberg
Capito	Gilchrest	Kolbe
Capps	Gillmor	LaFalce
Capuano	Gilman	LaHood
Cardin	Gonzalez	Lantos
Carson (IN)	Goode	Larsen (WA)
Carson (OK)	Goodlatte	Larson (CT)
Castle	Gordon	Latham
Chabot	Goss	LaTourette
Chambliss	Graham	Leach
Clayton	Granger	Lewis (CA)
Clement	Graves	Lewis (KY)
Clyburn	Green (WI)	Linder
Coble	Greenwood	Lipinski
Collins	Grucci	LoBiondo
Combest	Gutierrez	Loftgren
Condit	Hall (TX)	Lowe
Cooksey	Hansen	Lucas (KY)
Costello	Harman	Lucas (OK)
Cox	Hart	Luther
Cramer	Hastings (WA)	Lynch
Crane	Hayes	Maloney (CT)
Crenshaw	Hayworth	Maloney (NY)
Culberson	Hefley	Manzullo
Cunningham	Herger	Mascara
Davis (CA)	Hill	Matheson
Davis (FL)	Hilleary	Matsui

McCarthy (NY)	Putnam	Souder
McCollum	Quinn	Stearns
McCrery	Radanovich	Stenholm
McGovern	Rahall	Strickland
McHugh	Ramstad	Stump
McInnis	Regula	Sununu
McIntyre	Rehberg	Sweeney
McKeon	Reynolds	Tancredo
McNulty	Riley	Tanner
Meehan	Rivers	Tauscher
Meek (FL)	Rodriguez	Tauzin
Menendez	Roemer	Taylor (MS)
Mica	Rogers (KY)	Taylor (NC)
Miller, Dan	Rogers (MI)	Terry
Miller, Gary	Rohrabacher	Thomas
Miller, George	Ros-Lehtinen	Thompson (CA)
Miller, Jeff	Ross	Thornberry
Moore	Rothman	Thune
Moran (KS)	Roukema	Tiahrt
Moran (VA)	Royce	Tiberi
Morella	Rush	Toomey
Myrick	Ryan (WI)	Towns
Nadler	Ryun (KS)	Trafficant
Napolitano	Sanchez	Turner
Neal	Saxton	Udall (CO)
Nethercutt	Schaffer	Udall (NM)
Ney	Schiff	Upton
Northup	Schrock	Velazquez
Norwood	Scott	Visclosky
Nussle	Sensenbrenner	Vitter
Osborne	Sessions	Walden
Ose	Shadegg	Walsh
Otter	Shaw	Wamp
Oxley	Shays	Watkins (OK)
Pascarell	Sherman	Watt (NC)
Pelosi	Sherwood	Watts (OK)
Pence	Shimkus	Weiner
Peterson (MN)	Shows	Weldon (FL)
Peterson (PA)	Shuster	Weldon (PA)
Petri	Simmons	Weller
Phelps	Simpson	Wexler
Pickering	Skeen	Whitfield
Pitts	Skelton	Wicker
Platts	Slaughter	Wilson
Pombo	Smith (MI)	Wolf
Portman	Smith (NJ)	Wynn
Price (NC)	Smith (TX)	Young (AK)
Pryce (OH)	Smith (WA)	Young (FL)

NAYS—86

Abercrombie	Green (TX)	Ortiz
Allen	Gutknecht	Owens
Andrews	Hilliard	Pallone
Baird	Inslee	Pastor
Baldacci	Jackson (IL)	Paul
Baldwin	Jones (OH)	Payne
Barcia	Kaptur	Pomeroy
Barrett	Kennedy (RI)	Rangel
Berman	Kildee	Reyes
Berry	Kilpatrick	Roybal-Allard
Blagojevich	Kind (WI)	Sabo
Blumenauer	Kucinich	Sanders
Boniior	Lampson	Sandlin
Brown (OH)	Langevin	Sawyer
Clay	Lee	Schakowsky
Conyers	Levin	Serrano
Coyne	Lewis (GA)	Snyder
Crowley	Markey	Solis
Cummings	McCarthy (MO)	Spratt
Davis (IL)	McDermott	Stark
DeFazio	McKinney	Stupak
Deutsch	Millender-McDonald	Thompson (MS)
Dingell	Mink	Thurman
Doggett	Mollohan	Tierney
Doyle	Murtha	Waters
Emerson	Oberstar	Watson (CA)
Evans	Obey	Waxman
Filner	Oliver	Woolsey
Frank		Wu

NOT VOTING—8

Barton	Hall (OH)	Largent
Becerra	Hastings (FL)	Meeks (NY)
Cubin	Keller	

□ 1535

Mr. BERMAN and Mr. CROWLEY changed their vote from “yea” to “nay.”

Mr. GUTIERREZ changed his vote from “nay” to “yea.”

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SENSE OF CONGRESS THAT SCHOOLS SHOULD SET ASIDE TIME TO ALLOW CHILDREN TO PRAY FOR, OR QUIETLY REFLECT ON BEHALF OF THE NATION DURING THIS TIME OF STRUGGLE

The SPEAKER pro tempore (Mrs. BIGGERT). The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 239.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. ISAKSON) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 239, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 297, nays 125, answered “present” 1, not voting 9, as follows:

[Roll No. 445]

YEAS—297

Aderholt	Davis (FL)	Hill
Akin	Davis, Jo Ann	Hilleary
Armey	Davis, Tom	Hilliard
Baca	Deal	Hinojosa
Bachus	DeFazio	Hobson
Baker	DeLay	Hoekstra
Baldacci	DeMint	Holden
Ballenger	Diaz-Balart	Hooley
Barcia	Doolittle	Hostettler
Barr	Doyle	Houghton
Bartlett	Dreier	Hulshof
Bass	Duncan	Hunter
Bentsen	Dunn	Hyde
Bereuter	Ehlers	Isakson
Berry	Ehrlich	Israel
Biggert	Emerson	Issa
Bilirakis	English	Istook
Bishop	Eshoo	Jefferson
Blunt	Etheridge	Jenkins
Boehlert	Everett	John
Boehner	Ferguson	Johnson (CT)
Bonilla	Flake	Johnson (IL)
Bono	Fletcher	Johnson, Sam
Boswell	Foley	Jones (NC)
Boucher	Forbes	Kanjorski
Boyd	Ford	Kelly
Brady (TX)	Fossella	Kennedy (MN)
Brown (SC)	Frelinghuysen	Kerns
Bryant	Frost	Kildee
Burr	Gallegly	King (NY)
Burton	Ganske	Kingston
Buyer	Gekas	Knollenberg
Callahan	Gephardt	Kolbe
Calvert	Gibbons	LaFalce
Camp	Gilchrest	LaHood
Cannon	Gillmor	Lampson
Cantor	Gilman	Langevin
Capito	Goode	Larsen (WA)
Capps	Goodlatte	Latham
Carson (OK)	Gordon	LaTourette
Castle	Goss	Leach
Chabot	Graham	Lewis (CA)
Chambliss	Granger	Lewis (KY)
Clement	Graves	Linder
Clyburn	Green (TX)	Lipinski
Coble	Green (WI)	LoBiondo
Collins	Greenwood	Lucas (KY)
Combest	Grucci	Lucas (OK)
Condit	Gutknecht	Luther
Cooksey	Hall (TX)	Lynch
Costello	Hansen	Maloney (CT)
Cox	Hart	Maloney (NY)
Cramer	Hastings (WA)	Manzullo
Crane	Hayes	Mascara
Crenshaw	Hayworth	Matheson
Culberson	Hefley	McCarthy (NY)
Cunningham	Herger	McCrery

McHugh	Quinn	Spratt
McInnis	Radanovich	Stearns
McIntyre	Rahall	Stenholm
McKeon	Ramstad	Strickland
McKinney	Regula	Stump
McNulty	Rehberg	Stupak
Meek (FL)	Reyes	Sununu
Mica	Reynolds	Sweeney
Miller, Dan	Riley	Tancredo
Miller, Gary	Roemer	Tanner
Miller, Jeff	Rogers (KY)	Tauzin
Mollohan	Rogers (MI)	Taylor (MS)
Moore	Rohrabacher	Taylor (NC)
Moran (KS)	Ros-Lehtinen	Terry
Moran (VA)	Ross	Thomas
Morella	Roukema	Thompson (MS)
Murtha	Royce	Thornberry
Myrick	Rush	Thune
Nethercutt	Ryan (WI)	Tiahrt
Ney	Ryun (KS)	Tiberi
Northup	Sandlin	Toomey
Norwood	Saxton	Towns
Nussle	Schaffer	Trafigant
Ortiz	Schrock	Turner
Osborne	Sensenbrenner	Upton
Ose	Sessions	Visclosky
Otter	Shadegg	Vitter
Oxley	Shaw	Walden
Pence	Shays	Walsh
Peterson (MN)	Sherwood	Wamp
Peterson (PA)	Shimkus	Watkins (OK)
Petri	Shows	Watts (OK)
Phelps	Shuster	Weldon (FL)
Pickering	Simmons	Weldon (PA)
Pitts	Simpson	Weller
Platts	Skeen	Whitfield
Pombo	Skelton	Wicker
Pomeroy	Smith (MI)	Wilson
Portman	Smith (NJ)	Wolf
Price (NC)	Smith (TX)	Wu
Pryce (OH)	Snyder	Young (AK)
Putnam	Souder	Young (FL)

NAYS—125

Abercrombie	Gutierrez	Oberstar
Ackerman	Harman	Olver
Allen	Hinchey	Owens
Andrews	Hoeffel	Pallone
Baird	Holt	Pascrell
Baldwin	Honda	Pastor
Barrett	Horn	Paul
Berkley	Hoyer	Payne
Berman	Inslee	Pelosi
Blagojevich	Jackson (IL)	Rangel
Blumenauer	Jackson-Lee	Rivers
Bonior	(TX)	Rodriguez
Borski	Johnson, E. B.	Rothman
Brady (PA)	Jones (OH)	Roybal-Allard
Brown (FL)	Kaptur	Sabo
Brown (OH)	Kennedy (RI)	Sanchez
Capuano	Kilpatrick	Sanders
Cardin	Kind (WI)	Sawyer
Carson (IN)	Kirk	Schakowsky
Clay	Kleczka	Schiff
Clayton	Kucinich	Scott
Conyers	Lantos	Serrano
Coyne	Larson (CT)	Sherman
Crowley	Lee	Slaughter
Cummings	Levin	Smith (WA)
Davis (CA)	Lewis (GA)	Solis
Davis (IL)	Lofgren	Stark
DeGette	Lowey	Tauscher
Delahunt	Markey	Thompson (CA)
DeLauro	Matsui	Tierney
Deutsch	McCarthy (MO)	Udall (CO)
Dicks	McCollum	Udall (NM)
Dingell	McDermott	Velazquez
Doggett	McGovern	Waters
Dooley	Meehan	Watson (CA)
Edwards	Menendez	Watt (NC)
Engel	Millender-	Waxman
Evans	McDonald	Weiner
Farr	Miller, George	Wexler
Fattah	Mink	Woolsey
Filner	Nadler	Wynn
Frank	Napolitano	
Gonzalez	Neal	

ANSWERED "PRESENT"—1

Thurman

NOT VOTING—9

Barton	Hall (OH)	Largent
Becerra	Hastings (FL)	Meeks (NY)
Cubin	Keller	Obey

□ 1546

Mr. LUTHER changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2330) "An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for fiscal year ending September 30, 2002, and for other purposes."

The message also announced that the Senate agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2500) "An Act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002, and for other purposes."

SUDAN PEACE ACT

Mr. SMITH of New Jersey. Madam Speaker, I ask unanimous consent that the Committee on International Relations be discharged from further consideration of the Senate bill (S. 180) to facilitate famine relief efforts and a comprehensive solution to the war in Sudan, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mrs. BIGGERT). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 180

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sudan Peace Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Government of Sudan has intensified its prosecution of the war against areas outside of its control, which has already cost more than 2,000,000 lives and has displaced more than 4,000,000.

(2) A viable, comprehensive, and internationally sponsored peace process, protected from manipulation, presents the best chance for a permanent resolution of the war, protection of human rights, and a self-sustaining Sudan.

(3) Continued strengthening and reform of humanitarian relief operations in Sudan is

an essential element in the effort to bring an end to the war.

(4) Continued leadership by the United States is critical.

(5) Regardless of the future political status of the areas of Sudan outside of the control of the Government of Sudan, the absence of credible civil authority and institutions is a major impediment to achieving self-sustenance by the Sudanese people and to meaningful progress toward a viable peace process.

(6) Through manipulation of traditional rivalries among peoples in areas outside their full control, the Government of Sudan has effectively used divide and conquer techniques to subjugate their population, and internationally sponsored reconciliation efforts have played a critical role in reducing the tactic's effectiveness and human suffering.

(7) The Government of Sudan is utilizing and organizing militias, Popular Defense Forces, and other irregular units for raiding and slaving parties in areas outside of the control of the Government of Sudan in an effort to severely disrupt the ability of those populations to sustain themselves. The tactic is in addition to the overt use of bans on air transport relief flights in prosecuting the war through selective starvation and to minimize the Government of Sudan's accountability internationally.

(8) The Government of Sudan has repeatedly stated that it intends to use the expected proceeds from future oil sales to increase the tempo and lethality of the war against the areas outside its control.

(9) Through its power to veto plans for air transport flights under the United Nations relief operation, Operation Lifeline Sudan (OLS), the Government of Sudan has been able to manipulate the receipt of food aid by the Sudanese people from the United States and other donor countries as a devastating weapon of war in the ongoing effort by the Government of Sudan to subdue areas of Sudan outside of the Government's control.

(10) The efforts of the United States and other donors in delivering relief and assistance through means outside OLS have played a critical role in addressing the deficiencies in OLS and offset the Government of Sudan's manipulation of food donations to advantage in the civil war in Sudan.

(11) While the immediate needs of selected areas in Sudan facing starvation have been addressed in the near term, the population in areas of Sudan outside of the control of the Government of Sudan are still in danger of extreme disruption of their ability to sustain themselves.

(12) The Nuba Mountains and many areas in Bahr al Ghazal, Upper Nile, and Blue Nile regions have been excluded completely from relief distribution by OLS, consequently placing their populations at increased risk of famine.

(13) At a cost which has sometimes exceeded \$1,000,000 per day, and with a primary focus on providing only for the immediate food needs of the recipients, the current international relief operations are neither sustainable nor desirable in the long term.

(14) The ability of populations to defend themselves against attack in areas outside the Government of Sudan's control has been severely compromised by the disengagement of the front-line sponsor states, fostering the belief within officials of the Government of Sudan that success on the battlefield can be achieved.

(15) The United States should use all means of pressure available to facilitate a comprehensive solution to the war in Sudan, including—

(A) the multilateralization of economic and diplomatic tools to compel the Government of Sudan to enter into a good faith peace process;

(B) the support or creation of viable democratic civil authority and institutions in areas of Sudan outside government control;

(C) continued active support of people-to-people reconciliation mechanisms and efforts in areas outside of government control;

(D) the strengthening of the mechanisms to provide humanitarian relief to those areas; and

(E) cooperation among the trading partners of the United States and within multilateral institutions toward those ends.

SEC. 3. DEFINITIONS.

In this Act:

(1) **GOVERNMENT OF SUDAN.**—The term “Government of Sudan” means the National Islamic Front government in Khartoum, Sudan.

(2) **OLS.**—The term “OLS” means the United Nations relief operation carried out by UNICEF, the World Food Program, and participating relief organizations known as “Operation Lifeline Sudan”.

SEC. 4. CONDEMNATION OF SLAVERY, OTHER HUMAN RIGHTS ABUSES, AND TACTICS OF THE GOVERNMENT OF SUDAN.

Congress hereby—

(1) condemns—

(A) violations of human rights on all sides of the conflict in Sudan;

(B) the Government of Sudan’s overall human rights record, with regard to both the prosecution of the war and the denial of basic human and political rights to all Sudanese;

(C) the ongoing slave trade in Sudan and the role of the Government of Sudan in abetting and tolerating the practice; and

(D) the Government of Sudan’s use and organization of “murahalliin” or “mujahadeen”, Popular Defense Forces (PDF), and regular Sudanese Army units into organized and coordinated raiding and slaving parties in Bahr al Ghazal, the Nuba Mountains, Upper Nile, and Blue Nile regions; and

(2) recognizes that, along with selective bans on air transport relief flights by the Government of Sudan, the use of raiding and slaving parties is a tool for creating food shortages and is used as a systematic means to destroy the societies, culture, and economies of the Dinka, Nuer, and Nuba peoples in a policy of low-intensity ethnic cleansing.

SEC. 5. SUPPORT FOR AN INTERNATIONALLY SANCTIONED PEACE PROCESS.

(a) **FINDINGS.**—Congress hereby recognizes that—

(1) a single viable, internationally and regionally sanctioned peace process holds the greatest opportunity to promote a negotiated, peaceful settlement to the war in Sudan; and

(2) resolution to the conflict in Sudan is best made through a peace process based on the Declaration of Principles reached in Nairobi, Kenya, on July 20, 1994.

(b) **UNITED STATES DIPLOMATIC SUPPORT.**—The Secretary of State is authorized to utilize the personnel of the Department of State for the support of—

(1) the ongoing negotiations between the Government of Sudan and opposition forces;

(2) any necessary peace settlement planning or implementation; and

(3) other United States diplomatic efforts supporting a peace process in Sudan.

SEC. 6. MULTILATERAL PRESSURE ON COMBATANTS.

It is the sense of Congress that—

(1) the United Nations should be used as a tool to facilitating peace and recovery in Sudan; and

(2) the President, acting through the United States Permanent Representative to the United Nations, should seek to—

(A) revise the terms of Operation Lifeline Sudan to end the veto power of the Government of Sudan over the plans by Operation Lifeline Sudan for air transport of relief flights and, by doing so, to end the manipulation of the delivery of those relief supplies to the advantage of the Government of Sudan on the battlefield;

(B) investigate the practice of slavery in Sudan and provide mechanisms for its elimination; and

(C) sponsor a condemnation of the Government of Sudan each time it subjects civilians to aerial bombardment.

SEC. 7. REPORTING REQUIREMENT.

Section 116 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n) is amended by adding at the end the following:

“(g) In addition to the requirements of subsections (d) and (f), the report required by subsection (d) shall include—

“(1) a description of the sources and current status of Sudan’s financing and construction of oil exploitation infrastructure and pipelines, the effects on the inhabitants of the oil fields regions of such financing and construction, and the Government of Sudan’s ability to finance the war in Sudan;

“(2) a description of the extent to which that financing was secured in the United States or with involvement of United States citizens;

“(3) the best estimates of the extent of aerial bombardment by the Government of Sudan forces in areas outside its control, including targets, frequency, and best estimates of damage; and

“(4) a description of the extent to which humanitarian relief has been obstructed or manipulated by the Government of Sudan or other forces for the purposes of the war in Sudan.”.

SEC. 8. CONTINUED USE OF NON-OLS ORGANIZATIONS FOR RELIEF EFFORTS.

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that the President should continue to increase the use of non-OLS agencies in the distribution of relief supplies in southern Sudan.

(b) **REPORT.**—Not later than 90 days after the date of enactment of this Act, the President shall submit a detailed report to Congress describing the progress made toward carrying out subsection (a).

SEC. 9. CONTINGENCY PLAN FOR ANY BAN ON AIR TRANSPORT RELIEF FLIGHTS.

(a) **PLAN.**—The President shall develop a contingency plan to provide, outside United Nations auspices if necessary, the greatest possible amount of United States Government and privately donated relief to all affected areas in Sudan, including the Nuba Mountains, Upper Nile, and Blue Nile, in the event the Government of Sudan imposes a total, partial, or incremental ban on OLS air transport relief flights.

(b) **REPROGRAMMING AUTHORITY.**—Notwithstanding any other provision of law, in carrying out the plan developed under subsection (a), the President may reprogram up to 100 percent of the funds available for support of OLS operations (but for this subsection) for the purposes of the plan.

SEC. 10. HUMANITARIAN ASSISTANCE FOR EXCLUSIONARY “NO GO” AREAS OF SUDAN.

(a) **PILOT PROJECT ACTIVITIES.**—The President, acting through the United States Agency for International Development, is authorized and requested to undertake, immediately, pilot project activities to provide food and other humanitarian assistance, as appropriate, to vulnerable populations in Sudan that are residing in exclusionary “no go” areas of Sudan.

(b) **STUDY.**—The President, acting through the United States Agency for International Development, shall conduct a study examining the adverse impact upon indigenous Sudan communities by OLS policies that curtail direct humanitarian assistance to exclusionary “no go” areas of Sudan.

(c) **EXCLUSIONARY “NO GO” AREAS OF SUDAN DEFINED.**—In this section, the term “exclusionary ‘no go’ areas of Sudan” means areas of Sudan designated by OLS for curtailment of direct humanitarian assistance, including, but not limited to, the Nuba Mountains, the Upper Nile, and the Blue Nile

MOTION OFFERED BY MR. SMITH OF NEW JERSEY

Mr. SMITH of New Jersey. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. SMITH of New Jersey moved to strike out all after the enacting clause of the bill S. 180 and insert in lieu thereof the text of H.R. 2052 as passed by the House.

Mr. TOWNS. Madam Speaker, I rise today to express my concern over proposals that would deny investors and issuers access to the U.S. capital markets. As the House prepares to go to conference with the Senate on the Sudan Peace Act (S. 180/H.R. 2052), I would like to urge my colleagues to take a close look at the provisions of the bill that would impose such sanctions.

I am fully aware of the human rights atrocities that are going on in Sudan. As Congress works to develop policies to end the violence is important that we be careful and prudent and not act in ways that damage our economy, the free flow of capital, or create greater uncertainty in our capital markets.

Closing the U.S. capital markets in order to influence the behavior of foreign countries sets a poor policy precedent that might easily provoke other countries to pursue their own foreign policy objectives through similar sanctions. The continued health of our capital markets is dependent on economic and political certainty and predictability. The historic U.S. commitment to open and fair markets has been fundamental to the U.S. financial service sector’s ability to nurture and establish a substantial foreign client base.

The imposition of capital markets sanctions could have the unintended effects of redirecting business out of the United States and eroding the certainty and predictability that have been fundamental to the preeminence of the U.S. capital markets. Moreover, capital markets sanctions would seriously disrupt investor confidence—both domestic and foreign—in the U.S. markets, thereby jeopardizing their continued vibrancy. Federal Reserve Chairman Alan Greenspan said “the motive of the legislation, I think, obviously commendable, but I think it’s not been thoroughly thought through and I don’t think that the implications of this particular type of statute is useful to the United States and, indeed, I think it is downright harmful.”

Capital markets sanctions have never been imposed by the U.S. These types of sanctions would seriously disrupt investor confidence—both domestic and foreign—in the U.S. markets, thereby jeopardizing their continued vibrancy. The imposition of capital markets sanctions could also have the unintended effects of redirecting business out of the United States and eroding the certainty and predictability that have been fundamental to the preeminence of the U.S. capital markets. U.S. investors—pension funds, other institutional investors, and individuals—would see the liquidity, and the value, of substantial amounts of

their holdings drop precipitately even at the suggestion that companies in which they are invested would be forced to delist from U.S. exchanges.

In sum Madam Speaker, I believe it is a mistake to unilaterally try to resolve complex foreign policy issues through an untested formula that would greatly impair the U.S. capital markets. The goals of the Sudan Peace Act are laudable, but I object to capital markets sanctions that are included in the bill. As the House prepares to consider the Sudan Peace Act, I urge my colleagues to continue pursuing open and fair financial markets and reject these types of sanctions.

Mr. NEY. Madam Speaker, due to the recent tragedies on U.S. soil we are in the position to find ways to stop terrorist attacks. As Congress works to develop these policies it is important that we be careful to not accidentally damage legitimate American jobs. We must act in ways that do not damage our economy, the free flow of capital, or create greater uncertainty in our capital markets.

I am extremely concerned over proposals that would deny legitimate investors and issuers access to the U.S. capital markets. As this body moves to go to conference with the Senate on the Sudan Peace Act (S. 180), I urge my colleagues to take a close look at the provisions of the bill that would impose such sanctions. The imposition of capital markets sanctions could have the unintended effects of redirecting business out of the United States and eroding the certainty and predictability that have been fundamental to the success of the U.S. Capital markets. Moreover, capital markets sanctions would seriously disrupt investor confidence—both domestic and foreign—in the U.S. Markets, thereby jeopardizing their continued vibrancy.

The safety and certainty of U.S. capital markets attracted record numbers of foreign issuers and investors in the 1990s. In the competitive, global environment, however, there are few products and services for which U.S. companies are the sole suppliers. If issuers are denied access to the U.S. capital markets through unilaterally imposed sanctions, they will simply turn to other countries. Indeed, since the House of Representatives approved the Sudan Peace Act (H.R. 2052)—with a provision restricting capital market access—in June, at least one foreign company cited the uncertain environment created by the legislation in deciding to list on the London Stock Exchange over a U.S. exchange. H.R. 2052 would have little—if any—impact on the ability of sanctioned companies to raise financing, but it would strengthen the position of foreign competitors. U.S. investors—pension funds, other institutional investors, and individuals—would see the liquidity, and the value, of substantial amounts of their holdings drop precipitately even at the suggestion that companies in which they are invested would be forced to delist from U.S. exchanges.

Closing the U.S. capital markets in order to influence the behavior of foreign countries also sets a poor policy precedent that might easily provoke other countries to pursue their own foreign policy objectives through similar sanctions. The continued health of our capital markets is dependent on economic and political certainty and predictability. The historic U.S. commitment to open and fair markets has been fundamental to the U.S. financial service sector's ability to nurture and establish a substantial foreign client base.

In sum, Madam Speaker, I believe it is a mistake to unilaterally try to resolve complex foreign policy issues through an untested formula that would greatly impair the U.S. capital markets. The goals of the Sudan Peace Act are laudable, however, I am deeply troubled by the capital markets sanctions that are included in the bill. As the House requests a conference on the Sudan Peace Act, I urge my colleagues to continue pursuing open and fair financial markets and reject these types of sanctions.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 2052) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 180, SUDAN PEACE ACT

Mr. SMITH of New Jersey. Madam Speaker, I ask unanimous consent to insist on the House amendment and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey? The Chair hears none, and, without objection, appoints the following conferees:

For modification of the Senate bill and the House amendment and modifications committed to conference: Messrs. HYDE, GILMAN, and SMITH of New Jersey, Ms. ROS-LEHTINEN, and Messrs. ROYCE, TANCREDO, LANTOS, BERMAN, and PAYNE, and Ms. MCKINNEY.

For consideration of sections 8 and 9 of the House amendment and modifications committed to conference: Messrs. OXLEY, BAKER, BACHUS, LAFALCE, and FRANK.

There was no objection.

GENERAL LEAVE

Mr. YOUNG of Florida. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Joint Resolution 74, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2002

Mr. YOUNG of Florida. Madam Speaker, I ask unanimous consent that the Committee on Appropriations be discharged from further consideration of the joint resolution (H.J. Res. 74) making further continuing appropriations for the fiscal year 2002, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. OBEY. Reserving the right to object, Madam Speaker, I do not intend to object since I support this continuing resolution; but I rise in order to do a couple of things: first of all, to try to ascertain exactly what the schedule is expected to be around here for the remainder of the week; and, second, to try to focus the attention of the House on the linkage that exists between our need to pass this continuing resolution and our inability to finish bills such as the Department of defense appropriations bill, which the committee has tried mightily to produce as a bipartisan product.

I am wondering if the gentleman from Florida (Mr. YOUNG), under my reservation, I am wondering if he can tell me if he has any idea what the schedule is going to be for the remainder of the week.

Mr. YOUNG of Florida. Madam Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Madam Speaker, I wonder first if the gentleman would have any objection if I just make a brief explanation of what the CR does.

Mr. OBEY. I am happy to yield to the gentleman under my reservation for that purpose, Madam Speaker.

Mr. YOUNG of Florida. Madam Speaker, I appreciate the gentleman yielding.

Madam Speaker, this is a simple CR. It extends the current continuing resolution until December 7. The terms and conditions of all the previous CRs remain in effect. All ongoing activities will be continued at current rates under the same terms and conditions as fiscal year 2001, with the exception of the agencies covered by the FY 2002 appropriations bills that have already been enacted into law.

Additionally, the provision for mandatory payments has been extended for payments due on December 1, 2001.

As the gentleman from Wisconsin (Mr. OBEY) has suggested, this is not a controversial resolution, and I urge that we move it quickly.

Then to the gentleman's question as to the schedule, I wish I could give him a very definitive answer; but as he knows, we have completed work on all of the House bills, and yesterday the Committee on Appropriations was able to finalize the markup of the Defense appropriations bill.

If I could just state for the record, the reason the Defense appropriations bill is late is two-fold:

One is we waited until early July to get the President's budget amendment for the pre-September 11 Defense requirements; and then the Subcommittee on Defense of the Committee on Appropriations was actually here in the Capitol on September 11 when the tragic attacks on the World Trade Center took place, and at the Pentagon.

As the gentleman knows, the Capitol was evacuated immediately, so that had to be postponed.

Since then, additional activities have taken place; the \$40 billion emergency supplemental was broken up into three separate tranches; and yesterday we finalized the Defense bill plus the last tranche of that emergency supplemental.

Now the issue, I believe, for the schedule is this: that if the requirement of a 3-day layover before filing the bill, if that were to be waived, then we could actually bring the Defense appropriations bill to this floor tomorrow.

If it is not waived, then the 3 days would have to ensue. Then we would file the bill, get a rule, and it would appear to me that that would either be early next week or following Thanksgiving.

I think the 3-day rule is affected by what type of rule would be presented by the Committee on Rules. I believe that is an issue that the gentleman from Wisconsin (Mr. OBEY) is very much interested in.

That is about as much as I can say about the schedule. It is sort of iffy.

As far as the nonappropriations legislative schedule, of course the majority leader will speak to that probably sometime today.

Mr. OBEY. Madam Speaker, continuing under my reservation, I thank the gentleman for his comments. I would like to just make an observation.

I know that a number of Members of the House are being told that we may be in session Saturday because I and several others on this side of the aisle are refusing to grant permission for the Defense appropriations bill to be moved.

In fact, I made an offer yesterday to the majority in which I indicated that we would be willing to not offer any amendments in the full committee when the Defense appropriations bill was before us, and that we would be willing to give unanimous consent for that bill to be considered today on the floor, or tomorrow, provided only that we be given the opportunity to offer the three amendments which were in fact offered in the committee yesterday: one by the gentleman from New York (Mr. WALSH), another by the gentleman from Pennsylvania (Mr. MURTHA), and a third by myself.

Those amendments relate to guaranteeing that New York, Pennsylvania, and Virginia would in fact get the amount that they were originally promised in the original budget supplemental.

The Murtha amendment referred to crucial upgrades that we felt were needed in the defense budget in light of the events of September 11, and the contents of my amendment would have been focused on the need to strengthen homeland security in a wide variety of areas.

We said that if those amendments would be made in order on the floor, that we would be willing to go directly to the floor. That suggestion was not

responded to by the majority leadership.

I am willing to make an offer again right now, today. I would be willing to give my support to a unanimous consent request to bring that Defense bill up either today or tomorrow, provided only that those same three amendments be allowed to be debated and voted on on the House floor.

□ 1600

Those amendments were considered in committee yesterday. One was defeated on a vote of 31 to 34. Another was defeated on a vote of 31 to 33, and the third was dealt with on a voice vote. That is offer number one.

If that is not acceptable, I would be willing to waive the 3-day requirement to file views and to allow the bill to be called up immediately, provided that if the rule was defeated, the majority intends to offer that we would then be allowed to debate the bill under a rule which would allow those three amendments to proceed. So the majority leader, if he wished, or the majority leadership, if it wished, could get a vote on the kind of rule that they want. And if that rule goes down, the House would then be given the opportunity to vote on these three amendments.

I think we are trying to be infinitely flexible on this bill. But we do insist on the right to deal with three issues that are central to the defense bill which is the defense of the homeland, added funding for defense for overseas activities, and meeting our commitments to New York that were made in the aftermath of September 11.

We pledged at the time that the money to New York would be allocated in one of the subsequent appropriations bills. Since this is the only one remaining, this is it.

So I want to repeat that and to suggest that I think the House would appreciate the opportunity to vote on whether or not we should upgrade State and local health departments to help meet any public health problems that could be associated with terrorism. I think we would agree that we ought to increase our capacity at biosafety laboratories. Right now, those laboratories are operating at full capacity. They have no real ability to expand in time of crisis.

We would like to put \$150 million more in here to help firefighters. We would like to put \$240 million more in the budget to provide for additional cockpit security. We would like to put an additional \$200 million into the bill to provide assistance to local airports whom we have mandated to increase law enforcement without being given the concurrent Federal resources to do that.

We would like to add \$440 million to State and local health departments to better prepare the country for health emergencies. We would like to provide \$107 million more to the FBI so that they can protect their records and

make them less subject to problems in the event of attacks on the FBI itself.

We would like to provide \$500 million to the post office so that they can begin the process of figuring out how to sterilize the mail. And we would like to provide additional funding for the Coast Guard and Customs, among other items, all crucial to the security of the country. And all we are asking is that the Committee on Rules allow those three amendments to be debated.

I would ask the gentleman under my reservation if he would have any objection to the Committee on Rules allowing those three amendments to be considered by the House.

Mr. YOUNG of Florida. Madam Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Madam Speaker, I would like to say first that I appreciate the support that the gentleman from Wisconsin (Mr. OBEY) has given us through the process; and yesterday when the Committee on Appropriations took up the basic Defense bill, the Defense Appropriations bill, and added to it the amendment that, the chairman's amendments that allocated the \$20 billion of that \$40 billion supplemental. He was very supportive in his comments of both the underlying bill and the amendments. His position was, as he indicated, that there was much more that needed to be done.

I would say to the gentleman that I have analyzed those amendments closely and I have really found no objection to the amendments. The objection that I had to raise in the committee was only one of timing, whether we would do it today, now or whether we would wait for the President to request a supplemental.

But anyway then, directly to the question of the gentleman, I have no objection to the Committee on Rules providing a rule that would make any amendment in order to an appropriations bill that, in fact, is an appropriations issue. I do object to a rule or adding nonappropriations language to a bill.

In the case of the gentleman's specific question, I would tell him that I spoke to the chairman of the Committee on Rules earlier today and advised him that I would have no objection personally to a rule that would allow the consideration of those amendments. I believe that Members have a right to be involved in the debate on very serious issues; and, in fact, after the experience that we had yesterday, after about 7 hours, I almost wish that all of our Members could enjoy some of that fun that we had yesterday.

So the answer is I have already advised the chairman of the Committee on Rules that I would not object.

Mr. OBEY. Madam Speaker, I thank the gentleman for his comments. I understand that there are some other Members who have concerns.

Under my reservation, I yield to the distinguished gentleman from Minnesota (Mr. SABO), the ranking member

of the Subcommittee on Transportation of the Committee on Appropriations.

Mr. SABO. Mr. Speaker, I thank the gentleman for yielding.

Madam Speaker, I rise to support the continuing resolution and to speak about the supplemental appropriations bill.

Yesterday in the Committee on Appropriations, the gentleman from Wisconsin (Mr. OBEY) offered an amendment to increase funding for a number of critical security needs. Unfortunately, that amendment was defeated. The September 11 tragedies happened because terrorists were able to take over the cockpit of four airplanes.

The Obey amendment would have provided an additional \$250 million to prevent this from ever happening again. The President even requested this funding, but the majority bill, due to other priorities, included only \$50 million of the President's \$300 million request.

Today, the airlines have made some interim improvements so that cockpit doors cannot be as easily broken into, such as the strengthening of bolts. The President's proposed \$300 million for permanent modifications to secure the cockpit doors to prevent an intruder from entering the cockpit, the funding request by the President and included in the Obey amendment, would help airlines ensure that all aircraft cockpit doors are secured as quickly as possible.

In addition, the Obey amendment would provide additional funding to our Nation's airports to meet additional security needs. They are doing increased patrols of ticket counters, baggage claim areas and screening checkpoints that have been mandated as have increased inspections, controlled access points in areas outside the terminal buildings.

Airports have also been required to reissue all airport identification and verify such identification at all access gates. To meet these requirements, the airports have incurred significant additional costs, primarily for law enforcement officers and overtime pay.

The American Association of Airport Executives estimates the cost of these new requirements to be about \$500 million this year. These increased costs come at a time when airports are losing money due to increased air travel and fewer sales in airport shops and eateries. The airports estimate total revenue lost to be \$2 billion in 2002, or 20 percent of estimated revenue.

The Obey amendment included \$200 million to assist airports in meeting the cost of increased security requirements mandated by the FAA. As the Defense bill now goes to the House Committee on Rules and then comes to the House floor, I urge the House to allow consideration of the Obey amendment.

Just to be clear, would the gentleman from Wisconsin (Mr. OBEY) yield for a question?

Mr. OBEY. Surely.

Mr. SABO. Madam Speaker, all the funds that I speak of and all the funds that the gentleman from Wisconsin (Mr. OBEY) speaks of in his amendment, as I understand, are declared to be emergency funds, so they could only be spent, even after they are appropriated, if the President agrees, says there is an emergency and then releases the funds.

Mr. OBEY. That is exactly correct. What we are saying is that we believe that the President needs the added flexibility to have these funds available because of the crisis that we are in; and if he deems any of the items to be nonessential, he simply does not have to designate them as an emergency and that money would not be spent.

Mr. SABO. Madam Speaker, I thank the gentleman from Wisconsin (Mr. OBEY) for his answer, and I might indicate also that the gentleman from Wisconsin's (Mr. OBEY) amendment includes some additional funding for the important duty of the Coast Guard and for port security in this country, which is very crucial.

Mr. OBEY. Madam Speaker, further reserving the right to object, I thank the gentleman from Minnesota (Mr. SABO) very much. I think the gentleman's comments indicate why in the process of approving this continuing resolution we are concerned that the time that will be used by the Congress between now and the expiration of the new continuing resolution would be put to the best possible use.

Madam Speaker, continuing under my reservation, I yield to the gentleman from Maryland (Mr. HOYER), the distinguished chairman of the Subcommittee on Treasury, Postal Service and General Government, as well as the Subcommittee on Labor, Health and Human Services and Education.

Mr. HOYER. Madam Speaker, I thank the gentleman from Wisconsin (Mr. OBEY), my ranking member, for yielding and rise, obviously, in support of this continuing resolution.

This needs to be passed, but the issues that are being raised by Mr. OBEY and others who have spoken with reference to what we need to do in the short term, what we need to do before we leave and go home after the first session of the 107th Congress, I know the Coast Guard was just discussed, great concerns.

I represent obviously the State of Maryland. The State of Maryland is a coastal State, clearly concerns are raised. We have tankers going in and out. We do not know who gets off those tankers, gets in little rubber boats, brings items to this coast and to Maryland, to Delaware, in the Chesapeake Bay which may obviously pose dangers to many of the Federal facilities that are located therein.

We cannot wait. The gentleman from Wisconsin (Mr. OBEY) made that point yesterday very eloquently. The gentleman from Florida (Mr. YOUNG) is in

a difficult position, the chairman of our committee.

We had three amendments in committee yesterday. The chairman of our committee wanted to back all three of the amendments and said so, that he was inclined to vote for the Obey amendment, inclined to vote for the Walsh amendment and inclined to vote for the Murtha amendment, but he did not because there is a constraint being imposed.

Very frankly, that constraint will perhaps lead us to additional continuing resolutions because we may not finish our business in a timely fashion if we continue to delay that which I think we know we need to do. The issues raised by the gentleman from Wisconsin (Mr. OBEY), Coast Guard being but one, the homeland security issues, that is critical, need to be addressed and they need to be addressed in the short term.

I thank the gentleman from Wisconsin (Mr. OBEY) for his leadership on these issues. I thank him for raising these issues on an item that is not controversial, but gives us an opportunity to say that we need to move on these and we need to move in the short term on these, and I am certainly hopeful, and I say to my chairman for whom I have, as he knows, unreserved respect and great affection.

I think he is one of the finest Members of this body, and I would urge him to prevail upon those who will be making decisions to allow these amendments to be considered on the floor when we consider the Defense bill and its supplemental title, because I believe that considering these now is in the best interest of our country, the best interest of our security, the best interest of the safety of our people, the best interest of our confronting those who would terrorize this land and people around the world.

I, therefore, believe that as we did in responding immediately to the Terrorist Act, we need to respond with as much efficiency and speed as we possibly can to these identified.

I know the chairman and the ranking member agree on the objectives. That is the irony. It is not that we disagree with the objectives. We are just disagreeing on timing, and now is better than later. It is safer, more appropriate policy, and I thank the gentleman from Wisconsin (Mr. OBEY) for his leadership.

Mr. OBEY. Madam Speaker, further reserving the right to object, I thank the gentleman from Maryland (Mr. HOYER) for his comments.

Under my reservation, Madam Speaker, I yield to the gentleman from Massachusetts (Mr. OLIVER), the ranking member of the Subcommittee on Military Construction.

Mr. OLIVER. Madam Speaker, I thank the gentleman from Wisconsin (Mr. OBEY) for yielding, and I too rise in support of the continuing resolution which is indeed necessary, and I hope that this continuing resolution, which

is dated for December 7, will in fact provide us with enough time to finish the work that needs to be done on the appropriations legislation; and I have every reason to believe that that will be the case.

I also want to speak to the question of what the rules for debate ought to be on the Defense and the supplementary codicils on the Defense Appropriations bill and to urge the Committee on Rules to make in order the three amendments that have been spoken of earlier that had been offered in the Committee on Appropriations yesterday and each one, debated at length and then disposed of.

□ 1615

I want to speak specifically to the portion that has to do with the military construction budget, the area where I am the ranking member. One of the issues that is involved in the homeland security amendment which the gentleman from Wisconsin (Mr. OBEY) offered yesterday, has to do with our major, most important Department of Defense facility that deals with bioterrorism. That is right here close to the Capitol at Ft. Detrick, Maryland.

All of the samples for anthrax testing in the recent anthrax scares, went to Ft. Detrick. And the number of samples they would not have seen in a whole year were handled there within a 6-week period at a place which is aged and inadequate as a testing laboratory and very poorly equipped. But that is the place where we test the samples, where we develop the vaccines to try to meet those kinds of public health incidents.

If we had another agent, whether it be smallpox, or agent X, Y, or Z that was brought out and we were hit with that at the same time as we were trying to deal with the anthrax situation, that they struggled with so effectively during the past few weeks, that laboratory would be absolutely overwhelmed, far beyond its capacity to do the testing in defense of our public health. And part of the amendment which the gentleman from Wisconsin had offered yesterday having to do with homeland security began to correct that. It would put nearly \$5 billion into properly equipping and manning the office over there at Ft. Detrick so that they could do the necessary work.

The other thing that was in that, which is related to military construction, is actually \$400 million, or thereabout, close to it, and is actually much closer to the sort of thing that terrorists are directly involved with. We have seen the impact that dedicated terrorists can have on an open society such as ours. Well, we have also seen what happened in 1982, in Lebanon, when a dedicated terrorist was able to take a truck filled with explosives up to the very doors essentially of the dormitory where 200-plus of our Marines were being billeted and those Marines lost their lives. We are living under certainly very different circumstances

from the circumstances before September 11; and we are an open society, we have acted like an open society, and many of our bases are very open kinds of bases.

Anyone can walk right into the Naval Academy or West Point. Anyone can drive a truck, a delivery truck in there. We have never had to bother taking the kinds of inspection precautions that we probably now almost certainly need to take much more seriously. That kind of site is very much at risk for a similar sort of a situation that happened to our Marines in Lebanon. We have circumstances where there are major highways that go directly through the middle of major bases.

I can name them in large number, but just a couple are in North Carolina, at Camp Lejeune, a major Marine base there, and at Fort Bragg, a major Army base in North Carolina. Those bases have major highways running right through. There are thousands of civilians, thousands of vehicles passing through those bases each day. There are places where they can turn off. We do not yet have in those places the fences, the gates, the barriers, the inspection places to deal with that. We are in danger at places like that, and dozens of others in this country.

The amendment the gentleman from Wisconsin had offered would provide us with the money to do, in the worst cases, in the most egregious cases, not by any means all, we cannot probably in a matter of several years deal with all of the force protection problems in those kinds of places, but it would give us a major start in dealing with the kinds of places where we need fencing, we need gating, barriers, and inspection stations at our military facilities in order to be able to be certain that we can avoid the sort of terroristic effects we have seen in other places.

All of this really should be pretty familiar to us, because all of these things have been done close to the Capitol, around our own buildings here on Capitol Hill, and our men and women in the armed services deserve at least the same kind of protections that we have been trying to provide for ourselves. In fact, right here, within a matter of blocks of the Capitol, there is one of those billeting locations used by Marines here in the capital city and close to us, which lies within feet, literally feet, of Interstate 295 and major highway intersections. And we need to do things to correct that kind of risk, to reduce that kind of risk for our military personnel.

So I would hope that the Committee on Rules would make these three amendments in order, in order that they can be debated, in order that they can be fully considered by the full House and not just by the Committee on Appropriations. I thank the gentleman for yielding, and I do support the continuing resolution.

Mr. OBEY. Madam Speaker, continuing under my reservation of objec-

tion, I yield to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Madam Speaker, I thank the gentleman from Wisconsin for yielding. The gentleman from Wisconsin and the gentleman from Florida are known for their fairness. I am here to appeal to both of them, through the Speaker.

We need to keep our government funded and running while we finish our legislative business. I urge my colleagues to vote in favor of the continuing resolution. One of the Federal agencies that I am particularly focused on, and I would ask the two gentlemen to as well, is the Federal Emergency Management Agency. This agency administers the Firefighters Assistance Grant Program under the Fire Services Administration.

We all worked hard, in a bipartisan way, 285 co-sponsors, and finally brought it to reality, passed in both Houses. This month we passed the VA-HUD appropriations bill. It will provide funding for \$150 million for fiscal year 2002. But it is far from the amount that I think the members of our fire services deserve and need.

As part of the supplemental chapter of the Department of Defense appropriations bill, we are trying to secure \$150 million additional dollars for this necessary program. If September taught us anything, it is the importance of the firefighters and first responders to the public safety equation.

We had to scrape and beg to get \$100 million last year in the emergency spending bill. The leadership told us they did not believe us when we said the fire services needed this money desperately. So what happened? Thirty thousand applications came in to FEMA, over 19,000 fire departments throughout America, volunteer and career. And when we added up all those applications, it came to \$3 billion. We had \$100 million.

I believe we are sincere about responding to September 11, and yet we know that over 65 percent of our career departments are undermanned, that is, of the first 200 cities in America, 160 of them cannot pass muster right now, today. I am a bit chagrined that we are still scraping and begging, but this is needed.

And trust me, my colleagues, you will be hearing from all of these fire departments in your districts around the country. We are asking them to do a different job than 20 years ago, to be the first responders and, many times, the last to leave all of these emergencies. The odds are that all of us have a few fire departments at home that will not get a grant this year because there was not enough money to go around.

There are few heroes in our lives, but these people who put their necks on the line day in and day out to keep us safe certainly are, and that is what we are doing here today. I know our contribution to this worthy cause will continue to rise as each of my colleagues

hears from their own constituents about the need for more fire personnel, safety equipment, and vehicles.

I want to thank the gentleman from Wisconsin for yielding. This is an important matter to Americans and our fire departments and our EMT squads throughout the United States. They have been there as first responders, and we cannot ignore them. So I appeal to both gentlemen to hear the fairness of my request from the depths of their commitment in their own hearts.

Mr. OBEY. Madam Speaker, reclaiming my time under my reservation, I thank the gentleman very much for his comments, and I totally agree with them.

Madam Speaker, continuing under my reservation of objection, I yield to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Speaker, I thank the distinguished gentleman from Wisconsin for yielding to me and for his leadership, and I thank the gentleman from Florida (Mr. YOUNG), chairman of the committee, as well for his honesty and forthrightness, for those of us who did not have 7 hours yesterday, were not in the Committee on Appropriations, to make mention of his support of these amendments.

I thank the gentleman from Wisconsin for these amendments, and I would like to highlight and hope that the Committee on Rules will not only make them in order but I am hoping that they will prevail on the floor of the House.

I think the distinction that the gentleman from Minnesota (Mr. SABO) made is very important for us to reemphasize. This simply provides the appropriations that then can be designated by the White House as to whether an emergency exists and that these monies are then available to be utilized. I have no doubt that the President, once the facts are presented fairly and without obstruction, will understand what is going on in local communities.

The firefighter matter that my distinguished colleague from New Jersey just mentioned, I have had firsthand experience with. First of all, Houston went through Tropical Storm Allison. It does not compare to September 11 in the enormous loss of life, but we had our emergency responders on the front line there along with FEMA. Following back to back with Tropical Storm Allison in Houston came September 11, and the anthrax scare subsequent to that. My firefighters answered about 75 calls in a 3-day period, the HAZMAT team.

So the \$150 million to local communities, spread across the communities, is crucial to be able to respond to what the firefighters, the first responders, and the emergency teams are going through at this time. And so I hope that we will be able to not only pass this through the Committee on Rules but deliberate on the floor and ultimately pass it.

Just this morning, I believe we reached some sort of compromise on

the airline security bill. I am hoping that the compromise, when it ultimately reaches the floor, will be satisfactory as it relates to federalizing all of the security for the airlines. I understand it is gradual; that it will have a pilot program of five that will be able to experiment with a private company, but, more importantly, it will have a 3-year window of federalizing all of the security at our airports.

□ 1630

In the meantime, I believe it is crucial that we reimburse our local municipalities and our airports for the work that they have had to do, and the resources that they have used in light of September 11 and in light of the burden we put on them to say, we want to get our citizens back flying, get Americans back on planes. And from my traveling through airports, I can assure Members that local municipalities are bearing the brunt of extra security in the airport. We have to reimburse them. The director of the airport system in Houston indicated the necessity of getting these dollars to them.

In addition, the strengthening of the cockpit doors, even though we have heard that our airlines are gradually strengthening the cockpit doors, I do not think that we can assuredly say that every single cockpit door that departs from our soil is truly reinforced.

On the state of local hospitals, public hospitals, in the Homeland Security Task Force, we are well informed that the brunt of any kind of bioterrorism or chemical warfare in local areas obviously will fall to our public hospital systems. It is crucial that we reinforce them. Most of them are teetering because of the Medicaid and Medicare formulas, and so the \$440 million is crucial.

Madam Speaker, I have heard that the overtime is killing doctors and nurses. We need to make sure that the public hospital system is strong.

Lastly, the wisdom on the Postal Service is very important. Again, viewing those centers, one of the major mail centers in my community, watching the mail come through, this was before the stoppages because of anthrax, the ability to have equipment to sanitize that mail, both for the in-house postal workers and the letter carriers is crucial. It is important that our mail continue and that the American people know that we are taking charge and helping to assist them in the security of this Nation.

Madam Speaker, as I rise to support the continuing resolution, I hope these amendments will be made in order, and that we do this before we leave for any permanent holiday through the holiday season. I thank the gentleman from Florida (Mr. YOUNG) for listening to the needs of the Nation, and I thank the gentleman from Wisconsin (Mr. OBEY) for his leadership.

Mr. OBEY. Madam Speaker, continuing under my reservation, I yield to the gentlewoman from Florida (Mrs.

MEEK) who is very concerned about the security gaps at our ports.

Mrs. MEEK of Florida. Madam Speaker, I thank the gentleman for yielding, and I thank the gentleman from Florida (Chairman YOUNG) for the time and attention they have given to some of our greatest needs.

I regret that we were not able to get these things passed in our subcommittee. Everybody is concerned about these important issues, and both the chairman and the subcommittee chairman have worked hard, and the ranking member as well.

I am from Florida, and I have a sincere appreciation for the safety features that we must have at our seaports. Port security is an issue which the Obey amendment addresses to show exactly why it is so important. I think if Congress understands this, we can better interpret this to the administration. Each of us has constituents back home that we must face. The President is in a larger milieu. Americans want to know, are we safe and are our ports safe. We must carry that message. If we take a strong enough leadership position on this, I think the President will acquiesce, because he, too, understands the power of a constituency that is determined to get some kind of consideration for their needs.

Port security is an issue that neither party can take a stand against. Number one, we have 361 deep-water ports in this Nation. We have 14 deep-water ports in Florida. My own port in Miami is the largest cruise port in the world; 3.4 million people go through our port annually. Ports in the United States handle about 7.8 million tons of cargo each year.

At the same time, the State of Florida is heavily port dependent. Florida has the longest coastline of any state in the lower 48 States. International trade through Florida seaports reached 150 million tons in 2000, valued at \$73.8 billion.

Our State laws in Florida require that our ports have vulnerability assessments. They have been reviewed by the Florida Department of Law Enforcement. We already have security plans in place to ensure the safety of our citizens at Florida seaports. Not only is this important in Florida, it is important throughout the Nation. Most of the ports in this country do not have those security assessments made. We need to do these assessments, and we need to do them now and we need to address our vulnerabilities. Many of our seaports are located in extremely close proximity to United States military bases, population centers, and even the NASA operations at Cape Canaveral.

As the gentleman from Florida (Chairman YOUNG) knows, the port of Tampa alone handles over 10 million tons of hazardous cargo each year, including petroleum products. I cannot stress too strongly the importance of port security. There is a clear funding shortfall at this time for these ready-

to-go projects. They do not have to wait. We must impose upon our administration to bring these points to light.

I am 100 percent behind the continuing resolution, but I would be less than a good Representative if I did not come before Congress and ask for many of the things that the gentleman from Wisconsin (Mr. OBEY) has asked be considered in his amendment.

On the basis of Florida studies, Florida's deep-water ports require \$80 million more. The chairman of the Subcommittee on Treasury, Postal Service and General Government has done the best the gentleman can do. We have a huge security risk. Congress needs to understand that, and the administration also. It is clear that port safety and security nationwide is very costly.

The President recommends no funds whatsoever for port security. It is difficult for me to see the rationale for that. The Obey amendment includes \$200 million for port security assessments and enhancements. The Obey amendment is a prudent amendment. It looks at the security of our Nation. I say to Members that port security is a tremendously important security problem.

Madam Speaker, I urge my colleagues to support the CR, and I also urge the leaders to get these things done, to take the message to the President that we must take a stand on this. It is important.

Mr. OBEY. Madam Speaker, continuing under my reservation, I yield to the gentleman from Maryland (Mr. HOYER) who wanted to make one additional point.

Mr. HOYER. Madam Speaker, I had spoken generally about the amendments that we considered yesterday. As the ranking member of the Subcommittee on Treasury, Postal Service and General Government, I wanted to speak particularly about one item, and then mention three others quickly.

First, New York, Pennsylvania and the Pentagon, Virginia and the Washington, D.C. metropolitan area, sustained a direct attack; but there is another institution in our country which has sustained a direct impact, and that is the Postal Service of our Nation. We have lost two postal workers to anthrax. They died as a result of anthrax inhalation. I attended a memorial service for those two gentlemen, Mr. Curseen and Mr. Morris, 2 days ago.

In the Obey amendment, there is an item of \$500 million to allow the postal department to respond: one, to make sure that we do not lose any more lives of those who serve us in the postal department; and secondly, to make sure that we have the resources necessary to make sure that the mail that goes through the Postal Service, before it is delivered to individuals, is in fact free of biological or chemical agents which would cause them harm.

This is a critical component of the Obey amendment that, hopefully, will be made in order and we can offer. We cannot wait. From my standpoint, this

is not enough money for the Postal Service. This is not, and I would stress, all of the money that they will need. The Postmaster General said they will need between \$3 and \$5 billion to respond to the events of September 11 and the anthrax scourge that has confronted the Postal Service and others. I would urge us to focus on this Postal Service money.

Quickly, I would remark on the gentleman from New Jersey (Mr. PASCRELL), who has been a leader on behalf of the fire service. The Obey amendment provides an additional \$150 million for the firefighters and emergency response personnel.

The gentleman from New Jersey (Mr. PASCRELL) mentioned the shortages around this country in the fire service in our major cities. I will tell my friends in this House, the fire service of the District of Columbia does not now have the capacity to respond to a major catastrophe in this city. We all hope and pray that does not occur, but we are not ready for it if it does.

Two other items in the Treasury-Postal bill, we know that the northern border has been a relatively porous border. Canada is no threat to us, but terrorists have utilized Canada as an entry point into the United States. The Customs Department has told us that they need substantial additional funds. Unfortunately, they were not included in the President's budget, as submitted to us.

The gentleman from Florida (Mr. YOUNG) did in fact add some money, but not enough to accomplish the objective. The gentleman from Wisconsin (Mr. OBEY) adds to the sum that the gentleman from Florida (Mr. YOUNG) added, so we can accomplish a more secure northern border across which we know when the millennium occurred on January 1, 2000, shortly before that, one of the terrorists came across trying to cause an explosion to occur in the Los Angeles airport. Coming south, they were caught. That border is such that we were lucky; and we need to beef it up substantially, and the Obey amendment does that.

Lastly, we have talked about security at the Capitol. It is important and I support it. This is the center of democracy, but we need additional funds to secure our Federal facilities in which Federal workers labor daily on behalf of the American people. It is not that the terrorists seek to get to those individuals. They do not care who they are. What they want to get to is the Federal Government, and if we do not secure those buildings, we place our people at risk. The Obey amendment speaks to that objective, and I would hope that we can consider it as soon as possible.

Madam Speaker, again I thank the ranking member for his leadership, for his efforts on behalf of these objectives. I know the chairman of our committee supports these objectives. He articulated that yesterday. He is dealing with constraints, and we understand that.

Mr. OBEY. Madam Speaker, continuing under my reservation, I yield to the gentleman from Texas (Mr. EDWARDS), the second ranking Democratic member on the Subcommittee on Energy and Water Development.

Mr. EDWARDS. Madam Speaker, I congratulate the gentleman from Florida (Mr. YOUNG) on his efforts of moving the government forward during this time of national crisis. He has worked on a bipartisan basis, and for that, I have the greatest respect.

Madam Speaker, God forbid, had the terrorists of September 11 chosen as their weapon a nuclear bomb with just enough uranium to fill a soda can, placed it in a car in New York City, 2 million people, men, women and children, would have been killed that day.

□ 1645

To put that in perspective, one nuclear bomb parked in one car in a major American city would kill 400 times the number of people that the terrible terrorist attacks of September 11 killed.

I know we would all agree in this Chamber, Democrats and Republicans alike, that there is no greater responsibility of the Federal Government than to protect the lives of American citizens and families. In so many ways since September 11, this body has acted responsibly. Chairman YOUNG especially has led the fight to address vital national needs when it comes to homeland protection.

But, Madam Speaker, I come today to point out one area where I think this Congress has failed the American family. It is the area of protecting American citizens from the real and devastating threat of nuclear terrorism. I think most Americans would be shocked to find out that even despite all we have learned since September 11 that this Congress this year will actually reduce funding for the programs designed to keep nuclear weapons out of the hands of terrorists. Let me repeat that because I think many Americans will not believe it. Despite the occurrences of the tragedy of September 11, this year this Congress has voted to actually reduce funding for programs intended and designed to protect the American homeland and families from terrorists making nuclear bombs as weapons against our country. I find that incredible.

Intentions have been good. No one has intended to make America more vulnerable to nuclear terrorists. But in government good intentions do not protect anyone. It is our priorities and our funding decisions that really count.

I find it somewhat amazing that last night in the defense appropriations bill we were able to find \$256 million to protect this Capitol and me, Members of Congress and congressional employees from possible terrorist attack; yet we could not find one dime in that \$20 billion budget to fund defense of 281 million Americans against the real threat of nuclear terrorism.

I am not here to criticize anyone who helped put together necessary funding to protect this Capitol, its Members of Congress, 535 of them, and staff. This is the center and the symbol of our democracy, and it is right that we should protect it. But I would suggest if we can find \$256 million in this bill coming up this week to protect a couple of thousand people here in our Nation's Capitol, then we surely should be able to find \$100 million to protect 281 million Americans from nuclear terrorism.

It is fair for anyone to ask just how serious or how real is the possibility of terrorists getting their hands on nuclear materials, making a bomb, putting it in a car and exploding it here in the United States. Let me give you the answer that the U.S. Department of Energy would give us to that question. They say, and these are their words, we are in urgent need, urgent need, to immediately upgrade the protection of nuclear materials, 600 metric tons of which exist in Russia that are not presently adequately protected. That is enough nuclear material to potentially build 41,000 nuclear bombs, any one of which could kill 2 million to 3 million American citizens.

How real is the threat possibility of nuclear terrorism against our families? In Russia, it has been documented since 1992, we have had 14 instances of bomb-grade nuclear material being stolen from Russian facilities; and in eight of those cases, the stolen nuclear bomb-grade material was not found until it had actually left the country of Russia. I find that frightening. Even more recently, today's press reports are suggesting that materials have been found from the facilities left behind by fleeing al Qaeda and Taliban leaders that actually had materials that instructed those terrorists on the means by which to take nuclear material and build a nuclear bomb. I find that frightening.

But let us not just take the Department of Energy's word for it. Let us not take today's press reports for it to answer the question of how serious is the nuclear threat against American families. Let us look at what President Bush said yesterday in the Washington Post from actually a press conference of 2 days ago with Mr. Putin, and I quote our own President, Mr. Bush:

"Our highest priority is to keep terrorists from acquiring weapons of mass destruction." Our highest priority, the President said. "We agree that it is urgent that we improve the physical protection and accounting of nuclear materials and prevent illicit nuclear trafficking."

What did President Putin say on November 7, just over a week ago? Referring to nuclear proliferation, he called it one of the most foremost threats of contemporary times. How important did President Bush think it was that we act immediately in regard to protecting Americans against the threat of nuclear proliferation? On November 6, just a few days ago, he said, "We will

not wait until the authors of mass murder can gain the weapons of mass destruction. We act now because we must lift this dark threat from our age and save generations to come."

I support President Bush's effort to say we must act now. It is our responsibility to act now to protect Americans from the threat, the real threat, of nuclear terrorism. But this Congress has taken no action. In fact, if anything, we have rolled back the clock and reduced funding for those important programs.

Madam Speaker, I think it is absolutely essential for the protection of our homeland that the Congress, the Committee on Rules in the days ahead allow the gentleman from Wisconsin's amendment to be voted on on the House floor, because it would put into action what President Bush has said in his words, that we must act now.

Finally, some said last night in the Appropriations Committee hearing that we just wait till next year. Sometimes waiting is the responsible thing to do. I would argue that when it comes to protecting Americans from the threat of nuclear holocaust, waiting is a dangerous mistake. I am not willing to ask other families to pay the price of playing that waiting game. Let us follow the lead of President Bush in this time of national crisis. Let us act now by voting for the Obey amendment and adequately funding the programs to keep terrorists' hands off nuclear materials.

Mr. OBEY. I thank the gentleman for his comments. I think they are most important and ought to be heard by everyone.

Madam Speaker, further reserving the right to object, I yield to the distinguished gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Madam Speaker, I thank my friend and colleague, the ranking member of the Committee on Appropriations, for yielding to me for an opportunity to make some comments about the present situation. I also want to express my appreciation and high regard for the chairman of the Committee on Appropriations, the gentleman from Florida (Mr. YOUNG), for the way in which he has led the committee this year and the fairness with which he has conducted its operations. But there are several important issues that are before the Congress now that many of us are fearful are not going to be dealt with appropriately, much less thoroughly. Therefore, I want to say, also, how much I support the amendment that was put forth by the gentleman from Wisconsin (Mr. OBEY) to provide for the kind of domestic security which we now know we so desperately need as a result of the attacks that occurred on September 11 in New York, in Virginia, and the plane crash that occurred in Pennsylvania.

Speakers before me have stipulated, I think, in precise and clear detail why this amendment that the gentleman from Wisconsin has put forward is so

important to secure the safety of Americans all over our country. And so the rule that comes forward should make in order that amendment. The Members of the House ought to have an opportunity to express themselves on the issue of the funding of domestic security. And that opportunity will not be afforded to them unless the rule makes in order the gentleman from Wisconsin's amendment.

The same can be said about the amendment that is being offered by the gentleman from Pennsylvania (Mr. MURTHA). That amendment would add additional needs, or make them clearer in the appropriations bill with regard to our national defense; and that amendment ought to be made in order as well. Both of these amendments are based upon contingent emergency. In other words, the money would not be spent unless the President thought that it was necessary to do so.

We are offering these amendments because we know that the House is going to be in recess for some period of time, and it may be necessary for the President to respond, both in terms of national defense abroad and in terms of domestic security here at home. And so the Murtha and Obey amendments are very important and ought to be made in order and ought to be debated on the floor of the House, and we need to have the rule that governs this issue when it is brought to the floor make these amendments in order.

Also, very importantly, is an amendment that was offered on a bipartisan basis by the five members of the Committee on Appropriations who represent various congressional districts in the State and City of New York. As is true with the other two amendments, I think it is true of this one as well, that the chairman of our committee along with the ranking member support the ideas behind these amendments and the provisions within them. It is unfortunate that the chairman of our committee is working under very difficult and dire circumstances. Otherwise, we know that it would be routine for these amendments to be brought forward. But routine or no, these amendments should find their way to the floor. The amendment that we introduced as representatives of the State of New York also should have an opportunity to be heard on the floor and for the Members of this House of Representatives to express their will with regard to the disaster that struck New York City when the Twin Towers were attacked on September 11.

I do not know of another time, at least in the modern history of our country, when the Committee on Appropriations has not responded to the request of Members for aid at a time of disaster. In almost every instance when we speak of disaster, we speak of natural disaster. We speak of the results of flood or hurricane or earthquake or fire or some other natural disaster. The Committee on Appropriations always responds. This House of

Representatives always responds when disaster strikes anywhere in the country. The disaster that struck New York is the worst disaster in the history of the Nation. No, it is not natural, it is man-made. It was inflicted upon us by enemies from outside of the country. Nevertheless, we need to respond to the financial needs that are associated with the occurrence of that strike, that disaster.

We thought that this had been done. Under the leadership of the chairman of our committee, our ranking member, the Speaker of this House and others, an agreement was made shortly following the attack of September 11 which would provide \$40 billion; \$20 billion of that \$40 billion would go for national defense and home security, and the other \$20 billion, it was made clear, would be made available to the City and State of New York as a result of the consequences of this incredible disaster that fell upon New York City.

We thought that that deal was signed and secure. It was made, again, by the leadership in this House, the leadership of the Committee on Appropriations on a bipartisan basis with the President of the United States. And the President said, You shall have that money, State of New York, because we know you need it. But now we are told that it is not necessary to provide that money at this time. Only half of it has been made available to the City and State of New York because of that terrible strike.

□ 1700

We plead with you to provide us with the remainder, with the remaining \$10 billion, and we plead with you specifically for the individual people who were afflicted as a result of that disaster. Five thousand people almost were killed as a result of that strike. They left behind husbands, wives, children. Many people are without health insurance; many others have lost their jobs.

We need to take care of the widows and orphans that have resulted as a consequence of that strike, and we need to make available to the people who have been placed out of work, tens of thousands of people have lost their jobs as a result of that strike, we need to make available to them health insurance through COBRA, Medicaid for those who were not eligible for COBRA, unemployment insurance and Workers' Compensation for those people who have been injured as a result of this strike.

So these things, all of them, are necessary. These amendments are appropriate. They ought to be considered in the context of the bill. I hope and trust that when the Committee on Rules considers this issue, they will in fact make these amendments in order.

Mr. OBEY. Madam Speaker, continuing my reservation of objection, I thank the gentleman very much for his comments.

Madam Speaker, before I withdraw my reservation, I would like to bring

to the attention of the House two additional matters with respect to this matter.

I note and I am now reading from a story in the New York Times today which reads as follows:

"Osama bin Laden's al Qaeda network held detailed plans for nuclear devices and other terrorist bombs in one of its Kabul headquarters. The Times discovered the partly burned documents in a hastily abandoned safe house in the Karte Parwan quarter of the city, written in Arabic, German, Urdu and English. The notes give detailed designs for missiles, bombs and nuclear weapons. There are descriptions of how the detonation of TNT compressed plutonium into a critical mass, sparking a chain reaction and ultimately a thermonuclear reaction.

"Both President Bush and the British Prime Minister are convinced that bin Laden has access to nuclear material, and Mr. Bush said earlier this morning that al Qaeda was seeking chemical, biological and nuclear weapons.

"The discovery of the detailed bomb-making instructions, along with studies into chemical and nuclear devices, confirms the West's worse fears and raises the specter of plans for an attack that would far exceed the September 11 atrocities in scale and gravity. Nuclear experts say the design suggested bin Laden may be working on an fission device similar to Fat Man, the bomb dropped on Nagasaki. However, they emphasize it was extremely difficult to build a viable warhead."

The story goes on.

That is just one explanation of why the amendment that we seek to bring to the floor after this continuing resolution is approved, why that amendment contains \$1 billion aimed at keeping weapons of mass destruction away from terrorists, including the items discussed most eloquently by the gentleman from Texas.

I would simply say, Madam Speaker, there has been considerable misunderstanding about what the genesis of this amendment is.

Let me simply say, Madam Speaker, that immediately after the need became apparent, the gentleman from Florida and I both instructed our staffs to review all of the agency requests for additional funds that might legitimately be considered by this body in order to strengthen homeland security; and we produced for discussion purposes a document which listed items Tier One, Tier Two, Tier Three, in the order of what people considered to be their importance. Some of them are funded, some of them are not, under the base bill.

We feel that if there had not been intervention at a higher level in this institution, I feel strongly that we would have had a bipartisan amendment presented to the committee yesterday and to this House, whenever the bill is considered, which would have had us stand as one, just as we did a few weeks earlier when we passed with

no dissenting votes the first down payment of \$40 billion that the Speaker played a very constructive role in helping to negotiate.

Let me simply say that I understand why our friend on the majority side of the aisle and the committee yesterday could not vote with us on the amendments that we were proposing. I also understand that, in their hearts, many of them would have liked to.

I have an observation to make about that which has been, in my view, willfully misunderstood by one person in OMB who attended a meeting in the White House last week and willfully misdescribed to the press since.

When I was at the White House, I simply made this observation about Congress as an institution. It had nothing whatsoever to do with the operation of the White House or any other branch of government. What I simply observed was this: When each of us is elected, we come to this body as politicians. All we prove when we win our first election is that we know how to win an election. We then come to this body and seek to become legislators as well as politicians, and that process is furthered by each of us being given a committee assignment. After we are given that committee assignment, we learn the business over which that committee has jurisdiction. Some Members of this House learn it awfully well on both sides of the aisle.

The point I was trying to make is that for any legislative body to be a self-respecting legislative institution, there has to be a fair balance between the political requirements that sometimes drive the party leadership of both parties and the substantive legislative requirements that should drive the committees of this institution.

In my view, when the leadership of the other party seeks to intervene and shut off the judgment of the committee that has responsibility for the subject matter at hand, there is nothing wrong with that happening occasionally. That is the job of the leadership in both parties. But when it happens routinely, especially on matters this sensitive, then what happens is that this body becomes more and more strictly a political rather than a legislative institution. That is not good for us, that is not good for the country, and that is the point I am trying to make.

It seems to me that if the committee had been left to its own devices, we would have had a significantly uncontroversial proposal to make to the House, which would have increased funding for military expenditures associated with the war. It would have added these additional items which I believe are not at all controversial and are badly needed to plug some of the security holes, and we would have also assured that the original commitment made to New York, Pennsylvania and Virginia would have been maintained. That is the purpose of what we were trying to do yesterday.

I urge the White House and I urge every Member of this House to, please,

before they make up their mind about how they are going to vote on whatever rule is attached to the Defense Appropriations bill, I urge every Member to simply review line-by-line what it is that is being proposed. If they do, I think that you will find that the vast majority of members of both parties would recognize the substantive value of what it is we are trying to do. It just seems to me that that is our job.

I also want to point out again, lest anyone think we are trying to "bust the budget," each and every add-on to the homeland security package, each and every item in that bill contains as part of that item the following language: "Provided further that such amounts shall be available only to the extent that an official budget request that includes designation of the entire amount of the request as an emergency requirement, as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress."

What that language means, Madam Speaker, is that if this money were to be provided, not a dime could be spent unless the President later agreed that each and every one of those items represented an emergency that needed to be funded. If, in the judgment of the President after reviewing our arguments, he decided that spending could wait for another day, that is the way it would be. He would maintain total control over the expenditures.

But we believe it is crucial to provide this, because we have talked to the FBI, the CIA, the National Security Agency, to many other agencies of government, and we are convinced that this is necessary for the good of the country.

We have stimulus packages floating around here being promoted by both parties. I will not comment on what I think of them. But the fact is that if we want to stimulate the economy, the number one requirement is to restore public confidence in our ability to travel and people's ability to go into public places without fear, and that is what we attempt to do. That could do more to restore economic confidence than virtually anything else this body will do.

So I urge each and every Member to review this. And I repeat, we are perfectly willing at any time to grant unanimous consent for that Defense bill to come up today or tomorrow, provided only that we have an opportunity to vote on these three amendments. Surely that is not too much to ask.

Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mrs. BIGGERT). Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 74

Resolved by the Senate and House of Representatives of the United States of America in

Congress assembled, That Public Law 107-44 is further amended by striking the date specified in section 107(c) and inserting in lieu thereof "December 7, 2001"; and by striking the date specified in section 123 and inserting in lieu thereof "December 1, 2001".

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

COMMUNICATION FROM STAFF MEMBER OF THE OFFICE OF ATTENDING PHYSICIAN

The SPEAKER pro tempore (Mr. GRUCCI) laid before the House the following communication from Ronald J. Norra, Pharmacist/Security Officer of the Office of Attending Physician:

OFFICE OF ATTENDING PHYSICIAN,
U.S. CAPITOL,
Washington, DC, November 15, 2001.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena for production of documents issued by the U.S. District Court for the District of Columbia.

After consultation with the Office of General Counsel, I will make the determinations required by Rule VIII.

Sincerely,

RONALD J. NORRA,
Pharmacist/Security Officer.

UNITED STATES ARCTIC RESEARCH PLAN BIENNIAL REVISION: 2002-2006—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science:

To the Congress of the United States:

Pursuant to the provisions of the Arctic Research and Policy Act of 1984, as amended (15 U.S.C. 4108(a)), I transmit herewith the seventh biennial revision (2002-2006) to the United States Arctic Research Plan.

GEORGE W. BUSH.

THE WHITE HOUSE, November 15, 2001.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFazio) is recognized for 5 minutes.

(Mr. DEFazio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

(Mr. PALLONE addressed the House. His remarks will appear hereafter in the Extensions of Remarks)

□ 1715

CONGRATULATIONS TO MEL AND SUG HANCOCK ON THEIR 50TH WEDDING ANNIVERSARY

The SPEAKER pro tempore (Mr. GRUCCI). Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, I believe that all of us who are fortunate enough to serve in this House consider it a great privilege to do so, and we are very grateful to our constituents for giving us this privilege. I think most of us feel that the best part, the most gratifying part of our job is that we are able to help many people, and we receive many very kind thank you notes and letters. But certainly a close second is that we are each able to make some very close friendships with other Members from around the country, people we probably never would have met if we had never been able to serve in this House.

I consider myself very lucky to have become friends with former Congressman Mel Hancock of Missouri. Mel came to Congress just a short time after I did, and this was only because I was sworn in the day after the 1988 election, and he came in in January. I rise today to pay tribute to Mel because he and his wonderful wife, Sug, will celebrate their 50th wedding anniversary in Springfield, Missouri, this Sunday.

Mel was one of the best examples of a citizen legislator that I have ever known. He was as honest as it is possible to be. He was a straight shooter. He always told the truth. If he could not support a bill, he told the people who were for it that he could not support it. He was one man who was never swayed by any special interests. He was and is a patriotic man who loves this country. His life has been the American dream come true. He did not have everything handed to him on a silver platter. He lived and worked for a while, for about a year and a half, in my hometown of Knoxville as a representative of International Harvester; and he and Sug had a son born there in 1954. I guess I am glad that he left, though, because both of us could not have been elected to Congress if he had stayed there.

Mel started a bank security business and built that small business up from nothing to become one of the most successful small businesses in the State of Missouri. Probably from his small business background he became a staunch conservative, very much opposed to Federal rules and regulations and red tape, and absolutely horrified by waste and high taxes. He believed that the

people of Missouri knew better how to spend their own money than Federal bureaucrats could spend it for them. He believed in a government of, by, and for the people, rather than one of, by, and for the bureaucrats. He led the fight in Missouri for the Hancock amendment to limit taxes because he knew it is not possible to ever satisfy government's appetite for money or land.

He did not win every race or every election, but Sug stood by him through thick and thin, the losses as well as the victories. He won his seat in Congress running on the slogan of "Give 'Em Mel," and he did just that in his 8 years of service here. He served from 1989 to 1997 and always won overwhelming re-elections. He could have been easily re-elected in 1996; but he had committed to an 8-year term limit, and he was a man of his word. In fact, probably about the only issue that Mel and I ever disagreed on was that of term limits. Mel started something called the Hancock Poll for those of us who had come to Congress with him, always rating us compared to his votes, and some of us always thought it was a great honor if we came out very close to Mel in the Hancock Poll.

Shortly after the first election in 1988, Mel went with other freshmen to the Kennedy School of Government at Harvard; but because he found that there is not really true academic freedom in this country on our college campuses, and particularly in a place like Harvard, Mel got fed up and walked out on Harvard after just a short time there.

In his service here in this Congress, he became a member of the Committee on Ways and Means, and he was a leader on the Committee on Ways and Means on all the major issues that that very powerful committee acts on. He was a pilot, and he was very much interested in aviation issues; and during my 6 years as Chairman of the subcommittee aviation, he always had good suggestions and comments to make in regard to the very important aviation issues facing this country.

Mr. Speaker, Mel Hancock was and is a true-blue American who believes in free enterprise, private property and individual freedom, the things that made this country great. He voted that way here in the House. Mel Hancock helped make this Nation great, and our country is a better place today because of men and women like Mel and Sug Hancock. Mel Hancock is one of the finest men I have ever known, and I know that all of my colleagues who served here with him and got to know Mel join me in wishing him and Sug a wonderful and a happy 50th wedding anniversary this coming Sunday.

VISIONS FOR A NEW AFGHANISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. SOUDER) is recognized for 5 minutes.

Mr. SOUDER. Mr. Speaker, last Friday I led a bipartisan delegation to Europe that met with the exiled King of Afghanistan in Rome, and I want to say up front one of the most common questions we had was, is United States policy tilted towards the King, or is it tilted towards the Northern Alliance? And one thing we continually made clear and we need to continually make clear is that many of us here in Congress supported the Northern Alliance and wanted additional funding to go to them, and many of us in Congress support the exiled King. We support both, and we believe there should be a coalition government.

In fact, today's papers, in The New York Times, Washington Post, Los Angeles Times, all are running stories suggesting that the Northern Alliance is suddenly wanting to go it alone, now that after months of not moving or actually retreating, were able to advance with American bombs, all of a sudden they want to go exclusive. Our policy needs to be balanced.

I would like to share a few comments of our exchange with the King and then some thoughts on the direction of where we may head. Clearly, the King is 87. He is of strong mind and will, but he has been in exile for years. His role would be more of a coordinator and peacemaker, not necessarily a dominant leader. After all, he is 87, not 57. His heart hurts for his people and country. He expressed sorrow because of the terrorism that brought the bombing. He stated that that bombing was a necessary evil. He stressed the need for meetings with the Northern Alliance as soon as possible. We pushed him hard in part on that point, and clearly they need to get to those meetings. Unfortunately, one of the dangers here is if one group gets in a dominant position, particularly if they are in the minority population, a dominant governing position over the others, we will not have peace in Afghanistan; we will descend into further chaos.

We stressed Afghan solutions. But that does not mean just warlords who could not have advanced without our bombs; it means a real coalition. Our goal is to hunt down terrorists and to bring them to justice and to hold those who harbor terrorists accountable; but our goal is not to be nation-building beyond a point. We want an Afghan solution, but if they want our long-term support, they need to have a balanced solution.

We also aggressively oppose the distribution of heroin and the violation of human rights, which some of our so-called new-found friends have done as well, not just the Taliban. Financial assistance and trade policies of the United States are impacted by a government's abuse of human rights and death peddling through drug dealing and drug trafficking of heroin.

There is an Afghan solution that meets these goals, but it needs to include the people of the north as well as the majority Pashtuns of the south.

Americans today only see an Afghanistan that is riven by tribal factions, funded by heroin, chaos and constant war, terrorists and terrorist sympathizers. But the former King has shown that a different Afghan did exist, a coalition government, a move from monarchy to democracy, rights for women, and an economy not dependent upon heroin. It can happen in Afghanistan, and it did for many years.

In that sense, the country is currently missing all of this for many years, and the exiled king would give them a vision of hope. It is not a question of his returning as a King, but as a symbol of a functional Afghanistan which many people in the United States and the world do not see. As our delegation told him, if we do not see, if the Afghan that he represented that did not harbor terrorists, that respected human rights and, in fact, does not distribute heroin, then the American people will help rebuild their economic devastation that the Taliban has caused. But we are not going to help rebuild if, in fact, it is replaced with another government. It does not mean that an enemy of an enemy is just that, an enemy of an enemy is a temporary ally, but to be a friend, where they get the financial assistance, the trade and help in rebuilding their country, we want to see a decent government.

Afghanistan has been subject to being a political football for centuries, particularly between Russia and England, but all the way back to Timur-i-Leng, for centuries and centuries. The book "Tournament of Champions," a book about this battle for Central Asia, reads, in many ways, like the current New York Times: "Back and forth through the passes, through the mountain hideouts, hiding out in the snow, fighting mountain wars, tribal factions dominated by the bordering nations."

What we do see in the reign of the former King is a move to democracy, that it can be different. A country torn by war with tribal and religious differences that was poor before being wrecked by the Taliban is not suddenly going to be paradise on Earth. Romanticism by Americans is not in order.

But we do know that it can be a better Afghanistan. We do know that if there is a coalition government that respects the rights of the Afghan people, that does not deal in heroin, that is committed to rebuilding their economy, that is oriented towards peace, not harboring terrorists, it can be different. But if it does not, it not only will not be a paradise, it will continue to be close to an earthly version of hell.

HONOR THE FALLEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mrs. JO ANN DAVIS) is recognized for 5 minutes.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, today I would like to take up

where we left off yesterday as we continue to pay tribute and honor the fallen who perished as a result of the attacks of September 11, 2001. This growing list of over 3,000 names includes many of the victims of the recent horrific attacks on our great Nation. I intend to read these names for as many days as it takes in this ongoing effort to honor those individuals who lost their lives or are still missing. Again, please forgive me in advance for any mispronunciations of the names.

Mr. Speaker, I ask for God's blessing on the following: Terence M. Lynch; Michael F. Lynch; James Francis Lynch; Farrell Peter Lynch; James Lynch; Robert H. Lynch, Jr.; Sean Patrick Lynch; Michael Lynch; Richard Dennis Lynch; Louise A. Lynch; Sean Lynch; Nehamon Lyons, IV; Michael J. Lyons; Patrick Lyons; Monica Lyons; Robert Francis Mace; Marianne Macfarlane; Jan Maciejewski; Susan MacKay; Catherine Fairfax MacRae; Richard B. Madden; Simon Maddison; Dennis A. Madsen, Sr.; Neell C. Maerz; Joseph Maffeo; Jennieann Maffeo; Jay Robert Magazine; Brian Magee; Charles Wilson Magee; Joseph Maggitti; Ronald E. Magnuson; Daniel L. Maher; Thomas A. Mahon; William J. Mahoney; Joseph Maio; Takashi Makimoto; Abdu Malahi; Debora I. Maldonado; Myrna T. Maldonado-Agosto; Alfred R. Maler; Gregory James Malone; Joseph E. Maloney; Edward Francis "Teddy" Maloney; Gene E. Maloy; Christian Hartwell Maltby; Francisco Mancini; Joseph Mangano; Sara Elizabeth Manley; Debra M. Mannelta; Terence J. Manning; Marion Victoria Manning; James Maounis; Alfred Gilles Padre Joseph Marchand; Joseph Marchbanks, Jr.; Hilda Marcin; Peter Mardikian; Edward Joseph Mardovich; Charles Margiotta; Louis Neil Mariani; Kenneth Marino; Vita Marino; Lester Vincent Marino.

Again, Mr. Speaker, I have an alphabetical list that I would request that all Members utilize for this coordinated effort. As more victims are identified, their names will be added to this book. Please contact my office with times that fit Members' schedules so that we can arrange for the book to be on the floor at Members' convenience, for Special Orders or 1-minute speeches. I appreciate their assistance in this important undertaking. Again, I encourage my colleagues to join me in honoring the fallen.

□ 1730

The SPEAKER pro tempore (Mr. GRUCCI). Under a previous order of the House, the gentlewoman from Georgia (Ms. MCKINNEY) is recognized for 5 minutes.

(Ms. MCKINNEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from South Dakota (Mr. THUNE) is recognized for 5 minutes.

(Mr. THUNE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

GENERAL LEAVE

Mr. DAVIS of Illinois. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of my special order this evening.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

HONORING THE 50TH ANNIVERSARY OF JET MAGAZINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to acknowledge the 50th anniversary of Jet Magazine and pay tribute to its founder, Mr. John H. Johnson.

This month Jet Magazine, black America's number one weekly news magazine, turns 50 years old. Since 1951 Jet Magazine has provided a voice to and for African Americans and people of color. Jet Magazine has covered stories in black life that the mainstream press often ignores. From the civil rights movement to politics, music, the arts, and sports, Jet has always been there to give voice to ordinary people.

Today, Jet Magazine currently enjoys a circulation of more than 970,000 weekly and is international in its scope. The magazine has been successful because it speaks to and addresses issues that directly impact black America.

As Jet Magazine celebrates its 50th anniversary, it does so in good financial shape. We know that behind every successful venture is a person with vision and a good work ethic. Well behind Jet Magazine is Mr. John H. Johnson, a man of integrity a man who believes that hard work, determination, dedication, and education allows one to rise above poverty and racism.

Mr. Johnson's story is truly representative of one who has pulled himself up by his bootstraps. Born in Arkansas City, Arkansas, on the banks of the Mississippi River, he moved to Chicago when he was 15.

As a young man, he spent 2 years on welfare while at DuSable High School. He often calls himself a welfare graduate. He noted that the days he spent on welfare were some of his darkest days, and his greatest goal was to get off, which he did.

Mr. Johnson recalls that when, at the age of 24, he first tried to borrow money to start a magazine geared toward African American readers, a banker refused and called him a boy.

However, he did not give up nor give in. He secured a \$500 loan by using his mother's furniture as collateral.

In 1942, he founded Johnson Publishing Company in Chicago and began production of the Negro Digest, later titled Black World. On November 1, 1945, the first issue of Ebony hit the newsstands. With a monthly circulation of more than 2 million, Ebony is the largest African American-oriented magazine in the country.

Mr. Johnson did not rest on his success, and in 1985 he started Ebony Man, which now has a circulation of 300,000, and he owns a 20 percent interest in Essence, his closest competitor.

In the 1970s, Mr. Johnson branched into cosmetics, insurance, and other media. Today he owns Fashion Fair Cosmetics and Supreme Beauty Products. By all accounts, Mr. Johnson has risen above the obstacles of poverty and prejudice to become one of the most successful publishers and businessmen in history.

On tomorrow, I shall introduce a resolution in the House so that all Members will have an opportunity to pay tribute to this outstanding American.

He will be the first to tell us that he has not always enjoyed success. In fact, he started seven magazines, four of them failures. Mr. Johnson says that out of failure comes success. He instructs that one must always be willing to take the risk of failing in order to succeed.

His unwavering spirit, tenacity, and persistence to succeed have not been his alone. Mr. Johnson credits his late mother, Mrs. Gertrude Johnson Williams, for much of his success. It was her nurturing, support, and guidance that planted the seeds for his success. He notes that she lived to see 30 years of his success.

Additionally, he credits his wife of more than 50 years, Ms. Eunice Johnson, who is the producer and director of Ebony Fashion Fair, and his daughter, Linda Johnson Rice, who is the chief operating officer of Johnson Publishing Company.

Additionally, no operation is successful only because of its leadership. Mr. Johnson has a team of over 2,600 employees who contribute to Johnson Publishing Company. Stellar among this group for many years was Mrs. Willie Miles Burns, a good friend of mine and Mr. Johnson's cousin, who for many years was vice president for circulation.

As a result of Mr. Johnson's prowess, others have been able to let their lights of journalistic talent and management skills shine, individuals like associate publisher and executive editor emeritus Robert Johnson, who ran Jet for many years; and current senior editor, Sylvia P. Flanagan; managing editor Malcolm R. West; feature editor Clarence Waldron; Washington Bureau Chief Simeon Booker; West Coast Bureau Chief Aldore D. Collier, and many others who have helped to make the Johnson Publishing Company a team.

Mr. Johnson, now 83, still works hard and has not missed a beat. He has received thousands of awards and accolades. Recently, he was the first African American to be inducted into the prestigious Arkansas Business Hall of Fame.

Mr. Johnson and *Ebony* and *Jet* have all given African Americans, as well as much of the rest of the world, knowledge, insight, and understanding into the needs, hopes, and aspirations of the people.

Mr. CLAY. Mr. Speaker, I rise today to offer my congratulations to JET Magazine and its founder and publisher, John H. Johnson, on the 50th anniversary of the world's leading Black weekly newsmagazine.

John H. Johnson is the president of Johnson Publishing Company, the most prosperous African-American publishing empire in America. In addition to JET Magazine, his company also publishes *Ebony*, *Black Star* and *JET Jr.* magazines. Within the journalism industry, John H. Johnson is to publishing, what Berry Gordy of Motown is to the entertainment industry.

John Johnson's journalistic dream began in Chicago in 1942. Back then, he was going to college and working part time for an insurance company, where he clipped articles concerning African-Americans out of newspapers and magazines. It was there that Johnson realized that the black community was lacking a publication similar to *Life* and *Reader's Digest*, so he set out to design a magazine that would cater specifically to the African-American community.

To raise money to fund his project, Mr. Johnson's mother allowed him to use her furniture as collateral for a \$500 loan. Johnson then developed a mailing list of 20,000 African-American households, whose names he had pulled from the insurance company's list of policyholders. With the money he had borrowed, Johnson sent letters to those on the list, in which he offered \$2 subscriptions for his yet unpublished magazine. He received 3,000 replies and printed the first issue of his new magazine, *Negro Digest*, later to be renamed *Black World*, with only \$6,000.

Mr. Johnson began his second publication, *Ebony*, in 1945. Six years later, Johnson started JET Magazine, which today is his flagship publication. However, in the 1950's Johnson Publishing Company was not without problems. He had trouble getting mainstream sponsors to advertise, so Mr. Johnson decided to form his own company, called *Beauty Salon*, and advertised his own products in the pages of his publications. Johnson would later receive sponsorships from Zenith Radio and Chrysler after some coaxing.

Today, JET Magazine has a weekly circulation of nearly 1 million. Over the last 50 years, JET Magazine has chronicled the important milestones in the lives of African-Americans, including desegregation, black migration from the South, the Civil Rights movement, our efforts to reduce poverty, and African-American advances in politics, the Arts and sports. It is America's preeminent publication on the Black experience.

It is also worth noting that in 1995, Johnson Publishing Company expanded their operations into South Africa.

Over the course of his illustrious publishing career, Mr. Johnson has received numerous

awards for his outstanding achievements, including the Presidential Medal of Freedom, the Horatio Alger Award, the NAACP Springarn Medal, and the National Newspaper Publishers Association's Henry Johnson Fisher Award for outstanding contributions to publishing.

The Johnson Publishing name is synonymous with achievement, wealth, staying power, vision and plain old common sense. So at this time, I want to congratulate and thank Mr. Johnson and JET Magazine for 50 years of journalistic excellence.

Mr. SCOTT. Mr. Speaker, today, we celebrate the 50th Anniversary of JET Magazine, and congratulate Mr. John H. Johnson and the JET Magazine family on 50 outstanding years of covering African-American life.

Both *Ebony* and JET Magazine have meant a lot to African-Americans; it was a way for us to be connected as a community, at a time when there were few publications of widespread circulation devoted to African-American life. Many of us can remember the first time we glimpsed *Jet* and *Ebony* in our family homes, and learned about current events, and the lives and achievements of our fellow African-American.

The success and longevity of *Ebony* and JET Magazine are due to the vision, hard work and perseverance of John H. Johnson, the publisher, chairman, and Chief Executive Officer of Johnson Publishing Company.

John Johnson began with a vision and an idea. When he was in his early 20's, he worked for the Supreme Liberty Life Insurance Company, then the largest African-American owned business in the North. One of John Johnson's jobs was to comb African-American newspapers and magazines from around the country, in order to brief the President of Supreme Liberty Life. John Johnson soon discovered that African-Americans were hungry for news of their own community—news that was broader than what was reported in the predominantly white media of the time, and news that was not, as Mr. Johnson remarked, "only in connection with a crime."

So in 1942 John Johnson founded *Negro Digest*. However, due to his humble roots, Mr. Johnson did not have the financial support necessary to support his new publication. At the time, mainstream banks did not commonly make loans to African-Americans, so John Johnson ended up borrowing \$500 at the Citizens Loan Corporation, using his mother's furniture for collateral. The magazine quickly became successful.

In 1945, John Johnson launched *Ebony*, modeling it after *Life* and *Look* magazines. *Ebony* started as a magazine about achievement and success. John Johnson realized the importance of African-Americans feeling good about themselves, and of their achievements in the context of American society. In his book, *Succeeding Against the Odds*, Mr. Johnson wrote that at the time, "There was no consistent coverage of the human dimension of black Americans in Northern newspapers and magazines. It's hard to make people realize this, but blacks didn't get married on the society pages of major American dailies until the late sixties."

JET Magazine followed in 1951, and continued John Johnson's vision of reporting about the people, history and current events of the African-American community. For example, JET Magazine's Ticker Tape column, authored by

Simeon Booker, has been a consistent source of information about current events, and governmental and legislative decisions.

Over the years, John Johnson has helped to present the news and interests of people of color virtually around the world. Today we salute him, and one of his flagship publications—JET Magazine—for being part of our lives for 50 years. All of us look forward to another 50 years of success, and of *Ebony* and JET Magazine continuing to bring the news not only to all of us, but also to future generations.

Mrs. MEEK of Florida. Mr. Speaker, I am pleased to join my colleagues in honoring Mr. John H. Johnson, Publisher and Chief Executive Officer of the Johnson Publishing Company on the 50th Anniversary of JET Magazine—Black America's leading weekly news magazine.

Mr. Johnson is one of the true giants of the American business world, and the publishing industry. In November 1942, as a young visionary, he began publishing the *Negro Digest* with a \$500 loan using his mother's furniture as collateral. Over the years he has built the privately held company into what is widely regarded as the world's largest Black-owned publishing company.

Today, Johnson Publishing Company titles include: *EBONY* magazine, JET magazine, and *EBONY* magazine South Africa.

EBONY magazine, with a monthly circulation of more than two million, is the largest African American oriented magazine in the country.

Fifty years ago this month, Johnson Publishing introduced JET, a national weekly which now boasts a weekly circulation of nearly 1 million. Since 1951, JET magazine has firmly established itself as Black America's weekly news magazine. It has done so, primarily, by covering stories about Black life often ignored by the mainstream press, in a timely and relevant manner.

Johnson Publishing Company has provided thousands of opportunities for Black journalists to get their start and move to higher positions.

Mr. Johnson is one of those special individuals in whom there exists not only an immense capacity for service, but also that touch of genius which everybody recognizes but no one can define. He is also a great man with a great big heart. Since 1958 he has donated more than \$48 million to charitable causes.

So, to John H. Johnson I say thank you for your vision, your wisdom, and your example. Thank you for giving African Americans a voice in the publishing world, and congratulations on fifty years of publication of JET magazine.

AGRICULTURAL BIOTERRORISM COUNTERMEASURES ACT OF 2001

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. LUCAS) is recognized for 5 minutes.

Mr. LUCAS of Oklahoma. Mr. Speaker, I rise today to ask for Members' support for the Agricultural Bioterrorism Countermeasures Act of 2001, H.R. 3293.

The tragic events of September 11 have made all Americans appreciate our freedom and democracy more than ever. As we continue to get our lives back to normal, we must also realize how much this has changed.

Terrorism does not have to be directed towards people; it can be directed at our modes of transportation, our communications infrastructure, or even our food supply.

The United States Department of Agriculture, along with the Food and Drug Administration, is in charge of ensuring that Americans have a safe and abundant food supply.

I would like to make it absolutely clear that because of USDA and FDA Americans enjoy the benefit of the safest food supply in the world. However, USDA and FDA have not had to clearly focus on how to prevent terrorism, bioterrorism, agriterrorism, or whatever term one prefers to use in describing the threats to America's food supply.

Prevention is the key and long-term planning should be the goal to continued food safety. Congress needs to take positive steps to help USDA perform what we ask of it.

Today, I am dropping a bill to help with prevention and long-term planning. H.R. 3293 authorizes money to be spent on USDA's agricultural research laboratories so that there is adequate plant and animal research being performed to combat bioterrorism. Some of USDA's most important research facilities need to be modernized in order for the U.S. to stand ready for our new fight.

The bill also provides money for the Oklahoma City National Memorial Institute for the Prevention of Terrorism, for research to make sure that USDA, the Department of Agriculture, and other law enforcement and emergency preparedness organizations cooperate and have the proper techniques in place in the event of bioterrorism events.

Further, Oklahoma State is authorized to receive a grant to establish a food safety research center. OSU is the ideal location for a food safety center that is needed in our new struggle. This proposed food safety center will utilize state-of-the-art detection methods to determine the critical points in the food chain, from production, harvest, processing, and distribution, to consumption, where interventions could be applied to eliminate the known hazards for humans.

The Secretary of Agriculture will develop rapid response field test kits that can quickly be deployed to State and local agencies to determine if an act of bioterrorism has occurred. These are intended for quick discovery and to confirm outbreaks of plant or animal diseases, pathogens, or other bioterrorism agents.

The intramural agricultural bioterrorism research and development section of this bill will make USDA's ARS programs focus on enhancing regulatory agencies' response time, encouraging academic and private sector partners to work together to maximize research benefits, strengthening the links with the intelligence community to learn what research needs are most

important, and encouraging ARS to work with international operations to control the spread of plant and animal diseases.

The consortium for countermeasures against agricultural bioterrorism is truly valuable. Those colleges and universities that turn out animal and plant doctors will coordinate with the Federal agencies, such as USDA, to develop the long-term program needed to combat bioterrorism.

Furthermore, competitive grants will be provided through USDA which are directed towards the protection of the domestic food supply. The Animal and Plant Health Inspection Service, APHIS, will be authorized to receive more funds to increase inspections at points of origin and to improve surveillance at points of entry. They will also be required to develop new and better techniques of working with State and local agencies to control the outbreaks of plant and animal diseases.

The Food Safety Inspection Service, FSIS, will be charged with enhancing its ability to inspect the safety of meat and poultry products. Like APHIS, FSIS will be expected to work with State and local agencies to create the best possible means of sharing information and technology in order to reach the best results possible.

This legislation is designed for the long-term benefit of producers and consumers alike. Please support H.R. 3293.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. SHOWS) is recognized for 5 minutes.

(Mr. SHOWS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FOLEY) is recognized for 5 minutes.

(Mr. FOLEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. SCOTT) is recognized for 5 minutes.

(Mr. SCOTT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

(Mr. PENCE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mrs. CLAYTON) is recognized for 5 minutes.

(Mrs. CLAYTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RUSH) is recognized for 5 minutes.

(Mr. RUSH addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Ms. LEE) is recognized for 5 minutes.

(Ms. LEE addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

HISTORIC COMPROMISE ON AVIATION SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Ms. MILLENDER-MCDONALD) is recognized for 5 minutes.

Ms. MILLENDER-MCDONALD. Mr. Speaker, today is a glorious day for us. It is a glorious day for the American people because today we have reached a historic compromise and have finally addressed aviation security, a full 8 weeks after the tragic events of September 11.

We now have a victory for the American people, the flying public, and the flight crews that will be traveling during this upcoming holiday season. We will be scrapping a system that is broken.

Today, public safety is threatened by an unprecedented event: War has been declared on the American people by Osama bin Laden and his terrorist network. The Federal Government must protect our country during these times of peril.

Security at the Nation's airports is no longer a private-sector matter; it is in fact part of the front line of our Nation's defense. Congress needs to treat this as a question of national security by putting in place an effective Federal law enforcement system.

Mr. Speaker, America is experiencing a crisis of confidence in its aviation system. The status quo of private security firms in no way will provide the aviation security necessary to protect the traveling public. Simply put, the private contractors who currently have the responsibility for screening passengers and baggage failed on September 11, and for that matter, they have failed for the past three decades.

The private contractors entrusted with overseeing security for our aviation system are the same companies who pay very low wages, have a turnover of over 400 percent, and have failed to detect dangerous objects that were recently revealed by the GAO and the Department of Transportation during their testing.

□ 1745

In fact, 68 percent of the teams sent by the DOT Inspector General repeatedly found a breach of security.

Argenbright, one of the companies currently entrusted with security at our Nation's airports, was fined a million dollars and placed on 36 months probation. This company failed to conduct required background checks, hired convicted felons, and improperly trained workers which provided security at U.S. airports. Their probation was extended on October 23 for failure to comply with a previous court order. This is the same company that was responsible for the recent security breach at Chicago O'Hare.

This issue does not revolve just around Argenbright. In the last 5 years, FAA successfully prosecuted over 1,776 cases for screening violations which amounts to more than a violation a day. These cases resulted in \$8.1 million in civil penalties against air carriers for screening violations by screening companies.

Are these the kind of companies, Mr. Speaker, that we want to ensure our aviation security when millions of our fellow Americans and even us, who travel twice a week and will be traveling during this upcoming holiday day season, need? Absolutely not.

Thankfully, under the compromise reached by the conferees and the administration, all airports will have federalized screeners. In addition, this compromise will allow for a significant increase in the air marshal program. It will require screening for all checked baggage within 2 years, and it will require background checks for all airport personnel and aircraft crews.

The Congress owes a duty to the American public to ensure the strongest level of security possible at our Nation's airports. As the senior member serving on aviation from California, I am very pleased to be able to come today to let the American people know that Congress has responded to their requests.

Removing the profit motive from airport security and establishing a Federal law enforcement work force will provide the necessary security and restore the traveling public's confidence.

Mr. Speaker, we are all the better off.

TRAVEL STIMULUS ACT OF 2001

The SPEAKER pro tempore (Mr. GRUCCI). Under a previous order of the House, the gentlewoman from Hawaii (Mrs. MINK) is recognized for 5 minutes.

Mrs. MINK. Mr. Speaker, on November 13, 2001, I introduced H.R. 3281, the Travel Stimulus Act of 2001. This bill will allow individuals to claim a temporary tax deduction for travel expenses for cost of travel after September 11, 2001, and before September 12, 2001.

Mr. Speaker, people are not traveling. In my home State of Hawaii, our beaches and hotels are empty, our economy is floundering, and our workers are being laid-off at staggering rates. The total unemployed as of this date is 27,000.

I have introduced the Travel Stimulus Act of 2001, to allow individuals to deduct personal travel expenses for all personal travel to a destination of 500 miles or more from home.

These deductions cover the taxpayer's spouse and any dependents and must be used on commercial travel (air, bus, train, boat). The taxpayer may also use these deductions for hotels, meals and other travel costs.

Hotels are lowering their prices to try to entice tourists to come and stay. The federal government must do our part to give the public incentives to travel again in order to revive the depressed economies of all states and communities that rely on tourism for their living. The President and my fellow colleagues have repeatedly stated that we must keep America rolling and we must return to some sense of normalcy. Giving these incentives will actually accomplish these feats.

I urge my colleagues to support the Travel Stimulus Act of 2001.

EXTENDING UNEMPLOYMENT BENEFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GEORGE MILLER) is recognized for 5 minutes.

Mr. GEORGE MILLER of California. Mr. Speaker, yesterday the Committee on Education and the Workforce held a hearing at the request of the Democratic Caucus to listen to those individuals who have been impacted by the downturn in the economy, workers, Mr. John Sweeney, the president of the AFL/CIO, who represents many, many workers who have been caught in this downturn in the economy.

As we listened to two of the witnesses, Mr. Michael Hannah, who is a member of the Steel Workers in Birmingham, Alabama, who has worked for 29 years in that industry and recently, working for Butler Manufacturing, has just been told that he will be laid off indefinitely as of November 30. Mr. Hannah had been laid off earlier this year for 4 months. And, of course, what Mr. Hannah is now confronting is, his unemployment benefits of \$190 a week are running out.

We also heard from Linda Woods. Linda Woods has been employed in the commercial printing and advertising industry for the last 18 years and for one company the last 8 years, making \$19.11 an hour, but she too has been laid off and she is down to her last unemployment check. Her son, who is also working and helping her obviously while he is holding down two jobs for a hotel and an auto parts factory, has lost both of those jobs. First went the hotel job and then the auto parts factory job. So that income has been lost to her household.

Mr. Hannah told us also of the problems of his wife who just suffered a back injury and is unable to work and needs a lot of expensive medicines, as he said. He has also told us he would not be able to continue his health insurance under the COBRA program which allows unemployed people to continue to have their health insurance they had when they were working, but they must pay for, would cost him \$529 a month. And, of course, his unemployment provides him \$760 a month,

and he is unable to pay for that. So it is not a luxury, but it is something he must let go if he is going to try to meet his mortgage payment and the rest of the obligations to his family.

Ms. Woods was in the same situation. On her unemployment, she would have had to pay \$200 a month for her COBRA and she can not afford to do that, nor can her son.

These are two individuals that, between them, have worked almost 50 years, 50 years; and now they find themselves having to need unemployment for 26 weeks and that has run out. And yet this Congress has failed to respond to provide for an extension of unemployment benefits. We provided a bailout for the airline industry for \$15 billion, \$5 billion in cash. We provided \$38 billion to the energy industries in tax provisions. We have provided a repeal of the alternative minimum tax so that some of the richest and largest corporations in the world would get their taxes forgiven back to 1986. We have provided tax reductions for the wealthiest people in this country. And most recently now the President has suggested we speed up those tax reductions to that same group of very, very wealthy individuals.

But what the Congress has not found time to do is to take care of the hundreds of thousands of people, the millions of people in this country that are in the same situation as Linda Woods and Michael Hannah. What we have not found time to do is extend the unemployment benefits for another 26 weeks or another 13 weeks or whatever we can do to help these people. Many of these people were unemployed before September 11. But because of the September 11 terrorist attack in New York City and the Pentagon, the economy has gotten worse.

So their situation in trying to find work has become more difficult, and many people who are unemployed because of September 11 in the hotel industry, the travel industry, they now find themselves trying to replace their income in a worsening job market. If they look for work for 30 hours a week, they cannot get unemployment because that is not full-time, and while 97 percent of the businesses in this country pay into unemployment insurance, less than 40 percent of the people are covered.

Mr. Speaker, I realize my time is running out. I just want to say this. As Congress heads home for Thanksgiving dinner with their family, the holidays with their children and grandchildren, we had better remember these families and pass the unemployment extension bill so that they can do it. It is the most efficient economic stimulus we can provide. These people will spend the money to create the demand so the economy can recover. We ought to do it and we ought to do it now.

THE PLIGHT OF BLACK FARMERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mrs. CLAYTON) is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, over the last 9 years I have come to this floor to talk about the plight of rural America. I have talked about farmers, including small farmers, disadvantaged farmers and minority farmers.

Today, I rise again to talk about the plight of the black farmers who have suffered a saga of mistreatment, discrimination and benign neglect. I would say that both the problems, as well as their possibilities, really transcend region, transcend race. It encompasses a wide array of individuals that go beyond just black Americans but includes Hispanics, includes Asian, includes Indian Americans and women as well.

This issue also affects the disabled. A wheelchair-bound white male in Michigan has felt the sting of unfair discriminatory practices on the part of the Agriculture Department and contacted the Agriculture Department, who are there to serve; and indeed, all who are involved in farming as a way of life are affected by the mistreatment and by the lost opportunities that the black farmers would have.

All farmers are affected by changes and forces that have been experienced in this new world order or this new economy of the world. There are several factors that have caused small farmers to decline or to accelerate the decline of these small producers. They include globalization of commerce, economies of scale, limited access to capital and technological advances. The existence of worldwide markets for all commodities, not just agriculture, but all commodities, are feeling this, have created unique market forces and pressures that producers of the past did not have to compete against.

American's producers have to cope with the substantially larger and less accommodating world market in which to sell their merchandise and their commodities, with competitors who play by sometime significantly different rules.

In 1992, when we first started looking at farmers and the demise of farmers, we saw the landscape was very different, and we compared the landscape as it was in 1920, when we had over 6 million farms in the United States. Things have changed obviously. Close to one-sixth of those farmers were really in North Carolina; 926,000 small farmers were in North Carolina.

When we looked at it again in 1992, the landscape was very different. For only 1 percent of 1.9 million farmers in the United States were then operated by African Americans. Since the 2000 census, that decline has even gone further. At that time, it was only 18,816 farmers. That is a paltry number of African Americans when we consider that we represent more than 13 percent of the total population.

In my home State of North Carolina, there has been a 64 percent decline in minority farmers just over the last 15 years, from 6,996 farms in 1978 to 2,498 farms, again when we measured from this time in 1992. There are several reasons why a number of minorities and limited resource farmers indeed are declining so rapidly, but the one that has been documented time and time again is the discrimination in the credit extended by the Department of Agriculture, the very agency established by the U.S. Government to accommodate and to assist the special needs of all farmers and ranchers.

The issue was first raised in 1968 when the U.S. Commission on Civil Rights established that the USDA discriminated both in internal employee actions and external program delivery activities. An ensuing USDA employee focus group that was established in 1970 again reported that USDA was callous in their institutional attitude and demeanor regarding civil rights and equal opportunity.

In 1982, the U.S. Commission on Civil Rights examined the issue yet again and published the report called *The Decline of the Black Farmers in America*. The Commission concluded that there were widespread prejudicial practices in loan approval, loan servicing, farm management assistance as administered by then what we used to call the Farmers Home Administration.

However, as no improvement was forthcoming, indeed my friend the gentleman from Michigan (Mr. CONYERS) had a report. I want to tell my colleagues that this saga has been going on. In fact, the gentleman from Michigan (Mr. CONYERS) in his operational committee, as he chaired it, had a report and he called it *The Minority Farmer: A Disappearing Resource*. Well, we have an obligation then. We should do better.

Mr. Speaker, I will be coming to this floor more than once again to raise a consciousness that we cannot have this benign neglect, this mistreatment and this discrimination.

□ 1800

TRIBUTE TO VICTIMS OF SEPTEMBER 11 TRAGEDY

The SPEAKER pro tempore (Mr. GRUCCI). Under a previous order of the House, the gentleman from Illinois (Mr. SHIMKUS) is recognized for 5 minutes.

Mr. SHIMKUS. Mr. Speaker, I want to join my colleague, the gentlewoman from Virginia (Mrs. JO ANN DAVIS), in continuing to read the names of those who fell in the tragedy on September 11, and I would do so now.

Kevin Marlo; Jose J. Marrero; Fred Marrone; Constance Marshal; Shelley A. Marshall; John Marshall; Daniel Marshall; James Martello; Michael A. Marti; Teresa M. Martin; Peter C. Martin; Karen Martin; William J. Martin; Brian E. Martineau; Waleska Martinez;

Jose Martinez; Edward J. Martinez; Betsy Martinez; Robert Martinez; Lizzie Martinez-Calderon; Paul Richard Martini; Joseph Mascali; Bernard Mascarenhas; Stephen Masi; Ada L. Mason; Nicholas "Nick" Massa; Patricia A. Massari; Michael Massaroli; Philip W. Mastrandrea; Rudolph Mastrocinque; Joseph Mathai; Charles William Mathers; William A. Mathesen; Margaret Elaine Mattic; Marcello Mattricciano; Dean E. Mattson; Robert D. Mattson; Walter Matuza; Choi "Irene" Mau; Timothy Maude; Charles J. Mauro; Nancy T. Mauro; Dorothy Mauro; Charles A. Mauro; Robert J. Maxwell; Renee May; Tyrone May; Keithroy Maynard; Robert J. Mayo; Kathy Mazza; Edward Mazzella, Jr.; Jennifer Mazzotta; Kaaria Mbaya; James J. McAlary; Brian McAleese; Patricia A. McAnaney; Colin Richard McArthur; John McAvoy; Kenneth M. McBrayer; Michael Justin McCabe; Brendan F. McCabe; Charlie McCabe; Robert McCallum;

And I would encourage my colleagues to contact our colleague, the gentlewoman from Virginia (Mrs. JO ANN DAVIS), to help us read the names of those who fell in the tragedy on September 11.

TRIBUTE TO FORMER CONGRESSMAN EDWARD P. BOLAND

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Massachusetts (Mr. MARKEY) is recognized for 30 minutes as the designee of the minority leader.

Mr. MARKEY. Mr. Speaker, I appreciate having this time in order to speak about our great beloved, departed colleague from the State of Massachusetts, Edward Patrick Boland. He served in this institution for 36 years. He was elected in 1952; he served until 1988.

He loved this institution, and this institution loved him. He arrived in 1952, with his best pal, Tip O'Neill, another freshman Congressman coming from the eastern part of the State. They were roommates for 24 years here in Washington, really only staying here on Tuesday, Wednesday, and Thursday, and immediately returning to their home districts after the close of business on Thursdays.

And that is how it went in their little apartment over all those years until Tip was elected Speaker and brought Millie down. However, it had been preceded just a couple of years before that by Eddie breaking his long years of bachelorhood and marrying Mary Egan, a marriage that produced four beautiful children that were, without question, the pride and joy of his life.

Now, for those that knew Eddie, he still and for always will be thought of as a legislative giant, as someone who motored around on the floor of the House like the Energizer Bunny, moving at the speed of sound from deal to

deal to deal to deal as he worked his legislative magic. And whether the Member was Democrat or Republican, Eddie Boland was universally respected.

When, in 1977, Tip O'Neill decided that it was necessary to create a Permanent Select Committee on Intelligence, by definition that job required someone who could keep secrets, someone who could be trusted with the greatest intelligence which our country has, that which protects the national security, the health and well-being of every American, out of the entire institution, Tip selected Eddie Boland to be the first chairman of the Permanent Select Committee on Intelligence. Because he was someone that every Member, Democrat and Republican, would trust.

And so, without question, as the 20th century's legislative history is written, he will be looked back upon as someone who was the quintessential public servant, elected as a State representative when Roosevelt was President. He served in World War II, was elected and served in Congress in the Korean War, in the Vietnam War, and all the way through to the point where not only was the Reagan era ending but the George Bush, Sr., administration was about to begin. What a legacy that he leaves to this country, to his family.

So we in the Massachusetts delegation, without question, will miss him; but we know so too will all of his colleagues, all of his constituents, and all who came to know him in this great country.

I would like to turn now to the gentleman who succeeded Eddie in the United States Congress in his seat in Springfield, and, in fact, was Eddie's choice to carry on the political and spiritual legacy that he brought to the Congress from the City of Springfield, the gentleman from Massachusetts (Mr. NEAL).

Mr. NEAL of Massachusetts. Mr. Speaker, I want to thank my colleague, the gentleman from Massachusetts (Mr. MARKEY), who is the dean of the Massachusetts delegation, for organizing this Special Order as we pause in remembrance of my friend and former Congressman, Edward P. Boland.

Congressman Boland came here in the midst of the Eisenhower landslide; and he won that first race, I believe, by 5,000 votes. And for 36 years he served here virtually, but with a couple of exceptions, without challenge. What I think is ironic about the Boland legacy, beyond the kindness that he exhibited time and again, was the affection that he held for this old House. He revered his service in this institution, respected it, and believed time and again that this was one of the best jobs that anybody could ever hope to hold.

Eddie Boland came from Springfield's Hungry Hill. He was the child of Irish immigrants. For 50 years, 50 years, he was elected. Think of it, at least 25 elections, and at the end of those 25 elections he could say, at retirement,

he was undefeated and untied. What a remarkable legacy indeed that was.

But there are projects across this country that bear his imprint. Because of his relationship with John Kennedy and the fact that he was on the plane with President Kennedy, or at that time Senator Kennedy, as they returned from Los Angeles after having secured the Democratic nomination in 1960, he was devoted to the Apollo program and, indeed, remained, until his last days, one of its great champions.

We recall in this institution his wisdom as it related to the Boland amendment and Nicaragua. He saved this country from a disastrous journey had we proceeded with military support for Nicaragua. Today, Mr. Speaker, with the exception of Cuba, every government in Central and South America is freely elected. His impact on housing programs because of his subcommittee chairmanship at VA-HUD happens to be profound.

But there was another side of Congressman Boland, and I think my colleague, the gentleman from Massachusetts (Mr. MARKEY), and others in the delegation again hold it in highest regard. Congressman Boland only talked to reporters from the hometown newspaper. In 36 years in this institution, Congressman Boland had one fund-raiser, and really was upset that he had to go to it. He thought that the only allegiance he owed to anyone was to those people back in the Second District of Massachusetts.

And here is an even more compelling statistic, given the modern nature of Congress. Congressman Boland held one press conference in 36 years to announce he was retiring; and he did it on Hungry Hill, where 36 years before he had announced he was running, without a press conference at that time.

It is remarkable that his legacy could have been as pervasive as it was, given the fact that by nature he was fairly shy and really did not care for the limelight and did not care for the national attention that his years in Congress and the Boland amendment and the housing programs that he championed brought him as they were put in front of the American people.

It is the honor of a lifetime to have known him. I attended one day this remarkable Christmas luncheon that he had every year after he retired, which many of the people that had elected him State representative 50 years before all attended faithfully. At one of those luncheons, the fellow he defeated, I believe in 1934, for State representative from Hungry Hill, was there. And when asked why he was there, he simply pointed out that a half century before Eddie Boland had retired him from public life. And with that graciousness Boland simply smiled and laughed, and they had a wonderful moment of friendship and harmony again.

I am struck by that service, I am struck by the legacy, but I would like to take all of the young Members that

have come to this Congress during the last 2 years and say to them: you should understand the reverence that Eddie Boland held for service in this institution. He really believed that this was one of the great arbiters of fairness in American life. He really believed that this institution was courageous and visionary in the manner in which it proceeded. But not only did he feel strongly about this institution, he was a believer in the Federal Government of the United States.

I am going to close on this note, because while people understood him and his legacy and the programs he championed, one of the footnotes that occurred in his obituary that few people ever knew, because he never called attention to it, Eddie Boland marched in Selma, Alabama, to bring about an end to much of the unfairness that had been institutionalized in American life. He was patriotic, he was kind, he was impeccably decent.

He has a wonderful wife in Mary Egan, and to hear his son's remarkable testimony to his father at the funeral, his son Edward, his daughter Martha, daughter Kathleen, and son Michael. What a great family. And I would be remiss as I close if I did not mention one of the great eulogies that I have ever heard that came from former judge and my friend, Daniel M. Keyes, who was Eddie Boland's friend for 70 years.

We will miss him in this institution; we miss him in Massachusetts. A great friend was Congressman Eddie Boland.

Mr. MARKEY. Let me now yield to the gentleman from Massachusetts (Mr. OLIVER), whose congressional district abuts the district of the gentleman from Massachusetts (Mr. NEAL) and then Congressman Boland, so he knew him very well.

Mr. OLIVER. I thank the gentleman for yielding to me, and I am very pleased to be able to join my colleagues, the gentleman from Massachusetts (Mr. NEAL), from the second district, and the successor to Edward P. Boland, and the dean of our delegation, the gentleman from Massachusetts (Mr. MARKEY), from the eastern part of the State.

Mr. Speaker, I rise to pay tribute to the life and work of Congressman Edward Boland, who represented the Second Congressional District of Massachusetts for nearly 4 decades. Let me start by giving my deepest sympathy to Mary Boland and the Boland children for their loss of a husband and a father.

I first met Congressman Eddie Boland in 1968. He had already served more than 15 years and was a force in the Congress. I, by contrast, was making my first run for political office as a Massachusetts State representative in a district that partly overlapped Eddie Boland's Second Congressional District.

□ 1815

My first and most lasting impression of Ed Boland was his booming voice. He

was speaking at an event in Granby, and I was certain that he could be heard all of the way to South Hadley. Over time I learned that Congressman Ed Boland was not just heard, but attention was paid when he spoke. He was heard all the way down the hall to the Senate. He was heard by Presidents at the White House. He was even heard at the Pentagon.

This modest man with a towering voice commanded towering respect here in Washington, and he was a towering presence in the political life of western Massachusetts. Eddie Boland provides even now a model for Members of this House of Representatives to follow.

Eddie Boland was known equally for his ability to tackle the most complex issues of the day, and his willingness to show simple kindness to anyone around him who needed his help. He rose to national prominence on a number of issues, particularly his authorship of the Boland amendments restricting U.S. involvement in the conflict in Nicaragua. Yet the people of the Second Congressional District remained his foremost concern throughout his long and distinguished career.

When Eddie Boland passed away last week, everyone in the Pioneer Valley lost a friend. On behalf of the people of the First Congressional District, I rise to say "thank you" one last time to Congressman Edward Boland for his work and his service.

Mr. MARKEY. Mr. Speaker, I thank the gentleman for participating in this special order, and now I yield to the minority whip designee, the gentlewoman from California (Ms. PELOSI), who knew Ed Boland well.

Ms. PELOSI. Mr. Speaker, I commend the gentleman for calling this special order and congratulate him. I congratulate because this is a wonderful occasion when we in the House who served with Ed Boland can come together and talk about him and the wonderful contribution he made to our country.

I felt a special responsibility to come to the floor, not only because it was a privilege to serve with Eddie, but also as the senior Democrat on the Permanent Select Committee on Intelligence, I know full well what his great contribution was to our country. The gentleman referenced that in his remarks very beautifully, and I want to speak to that for a bit.

I do so bringing some of the appreciation from the staff of the Intelligence Committee, as well as many Members who have served on that committee over time. We serve in the Edward P. Boland Room in the Permanent Select Committee on Intelligence.

For over 50 years, 36 in this House, Eddie Boland represented the people of western Massachusetts with uncommon dedication and effectiveness. He believed deeply in the capacity of government to be a positive force in people's lives and in the duty of those in government to do everything within their power to ensure that result.

It has been said that he treated his constituents the same way as he treated his friends. That explains not only his success at the polls, but the high regard with which he was held. His career was a testament to the fact that politics, when practiced by people of great skill and commitment, is both an art and a high calling.

Eddie served with distinction on the Committee on Appropriations, and was the committee's second most senior Democrat for many years. He was a long-time chairman of what was then the Department of Housing and Urban Affairs and Independent Agencies, now known as VA-HUD. I doubt that there are many communities in the United States who have not benefited from his programs that he promoted on the subcommittee. Veterans hospitals and clinics, projects to improve the quality of air and water, affordable housing for the poor, the elderly and disabled, efforts to reinvigorate the Nation's cities and to explore the universe of which we are a part, were among the activities made national priorities by the appropriations measures he crafted. It is impossible to calculate all of the ways in which those programs made fuller and more secure the lives of the people of our country.

Had Eddie Boland's service been measured only by his work on the Committee on Appropriations, it would have been deemed highly successful. As has been mentioned by the distinguished dean of the Massachusetts delegation earlier, in 1977 Speaker Tip O'Neill asked Eddie to be the first chairman of the Permanent Select Committee on Intelligence. Tip's reasoning was simple. The leader of that committee would have to be someone people could trust, as the gentleman from Massachusetts (Mr. MARKEY) said, someone who could keep a secret.

Eddie Boland's integrity was unsailable. The committee's reputation for keeping secret matters secret is due in large part to the standard established during the 8 years he served as chairman. That is an incredibly long time to be chairman of the Committee on Intelligence.

Although not one to seek fame, he did not shrink from taking on a popular President in a most public way when the U.S. intelligence agencies unwisely, in his judgment, became involved in a civil war in Nicaragua. Later when questions arose as to whether laws restricting the activities of those agencies had been violated, he was among the small number of Members of the House selected to determine the truth. Even in the highly charged atmosphere that surrounded that investigation, when legislation bearing his name was central to the inquiry, he was not interested in publicity, but sought only to do the job entrusted to him by the House.

Despite his many accomplishments in Washington, Eddie took his greatest joy and was most proud of his family back home in Springfield. His wife,

Mary, and their children, Martha, Edward, Jr., Kathleen, and Michael were the focus of his life, each though he started late in life to acquire that magnificent and beautiful family. Many of us saw him with his family at the funeral of Congressman Joe Moakley, another esteemed Member of this Congress, and it gave us a chance to say hello to Eddie, and little did we know that it would be good-bye. But we reported to our colleagues in the House that Eddie was still as sharp as a tack and enjoying his beautiful family. Our condolences go out to Mary and the children.

That is why he left here, to spend more time with his family at a very important time in their lives. His devotion to them says as much about the man he was as does his distinguished service in the Congress.

Mr. Speaker, although I only served for a short time with Eddie Boland, I directly followed him onto the Committee on Appropriations and the Permanent Select Committee on Intelligence, so I know well how well-respected he was by his colleagues and by the people in the executive branch. He was one of the quiet, hard-working Members so essential to the conduct of the business of the House. His service enriched the Nation, and will always be a source of great pride for his family. Anyone who served with him will always treasure the privilege of calling him "colleague."

Mr. Speaker, I thank the gentleman for allowing me to participate in this special order.

Mr. MARKEY. Mr. Speaker, I thank the gentlewoman for participating.

One of the great things about Eddie Boland was that he lived such a long life. He passed away at 90. The gentleman from California (Mr. GEORGE MILLER) is now one of the few Members who served with him because he left 13 years ago. I yield to the gentleman from California.

Mr. GEORGE MILLER of California. Mr. Chairman, I thank the gentleman for holding this special order so we can pay tribute to Eddie Boland. I want to mention a small episode.

There was a time when many of us were involved in trying to end the violence in Latin America, in Guatemala, El Salvador, Nicaragua and elsewhere. It was a struggle that was consuming those individuals and those countries. It was an uphill struggle.

Finally, justice came, and in the case of El Salvador, a democratic government has been established and a series of elections have been held; but that was not the history of the region and that country at the time when I served in this Congress with Mr. Boland.

I always thought that the reason that justice came to Central America in large part was because the generals in El Salvador made a huge mistake and the intelligence community in this country made a huge mistake.

The generals in El Salvador made a huge mistake in lying to Joe Moakley

about their involvement in the killing of the Jesuits at the university. From that day forward, because he recognized the lie when it was uttered, and I was with him on the trip to Latin America to investigate that, Mr. Moakley recognized that lie the minute it was presented on that military base by those generals. He pursued it along with our now-colleague, the gentleman from Massachusetts (Mr. MCGOVERN) for many, many months until that lie unraveled and we realized the incredible role that the Government of El Salvador played in the murder of those Jesuits and its military.

Eddie Boland, while he did not agree with us necessarily on the policy in Latin America or what some of us were trying to achieve, believed that the laws of the land were the laws of the land. When he later found out the involvement of the intelligence agency in Latin America and when it became clear that they were fudging the laws, we passed the Boland amendment that made it very clear that having Eddie Boland stand before this Congress and support the Boland amendment and having this Congress pass the Boland amendment as he did in his role as the chairman of the Intelligence Committee changed the dynamics and changed people's attitude to what was taking place in Central America and the deep involvement of this country in really horrific events and abuses of human rights in those countries.

Mr. Speaker, I think we owe him a great debt of gratitude because he insisted that people not play fast and loose with the laws of this country, that this country not be involved in the abuse of human rights of the people in El Salvador; and we all should thank him very much and remember him for that important role that he played on behalf of humanity who, without Eddie Boland, would not have had a champion of that stature to bring about that kind of change.

I thank Eddie Boland for his service to this country.

Mr. MARKEY. Mr. Speaker, I yield to the gentlewoman from California (Ms. PELOSI.)

Ms. PELOSI. Mr. Speaker, I just want to mention that we serve, those of us on the Intelligence Committee, serve in the Edward P. Boland Room upstairs, and while Members have the opportunity to come to the floor to express their condolences as well as their commendations of Mr. Boland, I want to extend the condolences also of the staff of the Permanent Select Committee on Intelligence, especially Mike Sheehy, the Democratic counsel to the staff, who served Mr. Boland so very well for so many years, and mourns his death, and knows more about his contributions than many.

I thank the gentleman for allowing me that further remark.

Mr. MARKEY. Mr. Speaker, I thank the gentleman from California (Mr. GEORGE MILLER) very much. When a younger Member is advocating for an

idea, you look around the institution to find somebody who everybody respects who as we say in the Catholic Church, would place their imprimatur, their blessing, on the idea.

As the gentleman from California (Mr. GEORGE MILLER) knows, when Mr. Boland put his blessing in terms of what our relationship should be with the Government of Nicaragua, at that point people could disagree with Eddie Boland, but they knew they would be wrong because he would never take anything other than the most honest position.

Let me conclude the special order by recognizing the only other member with the exception of myself who served in the Massachusetts congressional delegation with Eddie Boland, the Congressman from the city of Newton, the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. MARKEY) for taking this special order to give us a chance to express our sympathy to Mary Boland and their children, and express our admiration for a man who really had an extraordinary, distinguished legislative career.

I am a great follower of parliamentary and legislative history. It is something that I read to relax, reading about the British parliament and other parliamentary bodies. I do not think it is sufficiently appreciated what an important role a leading institutionalist plays in making democracy function. Among other things, that is what Eddie Boland exemplified.

□ 1830

He was an elected official, a man who came up through the political ranks, was always deeply rooted in the community from which he came, who was always in constant touch at all levels with the people he represented, and who took to Washington their mandate and built on it. He was at the same time their Representative and someone who transcended what might be the narrowing aspects of being a Representative.

As previous speakers have said, he confounded some stereotypes. He was not by his manner, by his political background, by his general place in the world of the political culture the kind of man who people would have expected to have been leading an assault on a Presidential foreign policy. We have a tradition of deferring to Presidents in foreign policy, indeed excessively, it seems to me, in many cases because legitimate differences ought to be articulated.

Eddie Boland, as the gentleman from Massachusetts and the gentleman from California just said, did a great deal to legitimize the notion that in a democratic society, elected officials had not only the right but the duty to speak out if they thought the President was pursuing gravely mistaken foreign policies. The fact that Ed Boland did

that and did that with his dignity and with his respect for this institution and with all of the cultural attributes that he brought to the job really did, as the gentleman said, give it the imprimatur, or did give it a legitimacy.

What that meant was this. It meant we could argue it on the merits. Too often when we are dealing with an issue like this, there is a whole set of deferences, a whole set of attitudes that interfere. Ed Boland's stature in this institution was justifiably of sufficient weight so that when he spoke on that issue, he overcame those deferences and we got to the merits, and he did a great service. He was also, of course, defending the prerogatives of the elected legislature against the executive, and in that also he was carrying on in the tradition of great parliamentarians.

Finally, as someone who has been concerned with housing policy since I got here, I want to acknowledge his great leadership as subcommittee Chair in terms of recognizing the obligation of this very wealthy country to do something about the housing needs of the people. We look back now to the days of Ed Boland's chairmanship of the appropriations subcommittee dealing with HUD as golden days when we in fact did far more to meet vital social needs than we are doing today, unfortunately. And there are a lot of reasons for that. But Ed Boland's committed and passionate advocacy, and you can be passionate without making a lot of noise, you can be passionate by having an unstinting, unyielding determination to do the right thing; and that is what he had.

As my friend from Massachusetts has said, he and I are the last two Members who served with Ed Boland and know just what integrity he brought to this job and just to what extent he exemplified what an elected representative of the people ought to be in a functioning democracy. I thank the gentleman for giving me the opportunity to say this.

Mr. MARKEY. I thank the gentleman from Massachusetts, and I thank all of the Members who have participated in this Special Order.

We will keep this part of the RECORD open so that any other Members who wish to do so may enter their own statement.

Eddie Boland's career ended the way it began. He worked tirelessly in order to make the world a better place. I am proud to have known him. I am proud to have worked with him. I am proud to have served with him in this institution that he loved so much. I am proud to have called him my friend. His service to this country will never be forgotten. Our condolences to his wife, Mary, and his children.

May Eddie Boland rest in peace.

Mr. MEEHAN. Mr. Speaker, I rise today to commemorate the life of public service and passing of Congressman Edward "Eddie" P. Boland. Congressman Boland was a humble statesman who moved legislative mountains and earned the respect of his colleagues with

a polite manner and solemn regard for this body.

He received his education from Springfield's Bay Path Institute and Boston College Law School. The son of an Irish immigrant railroad worker, he would later establish himself as a community leader. Boland began his life of public service at the age of twenty-three when elected to the Massachusetts House of Representatives. Later, he was elected as the Hampden County register of deeds. In 1942, he enlisted in the Army to fight tyranny in the Pacific theater of World War II and was promoted to captain.

In 1952, Eddie Boland won election to Massachusetts' second congressional district seat in the U.S. House of Representatives. During his 36 years in the House, Congressman Boland became the Chairman of the Permanent Select Committee on Intelligence and of the VA, HUD and Independent Agencies Appropriations Subcommittee. Developing the necessary trust between his committee and the intelligence community and an acceptance of the need for Congressional oversight were hallmarks of his Chairmanship. Furthermore he was a steadfast advocate for individual's privacy rights and providing informative but discreet intelligence information to the public. Among this most notable legislative achievements was passage of the Boland amendments which restricted the use of U.S. funds by Nicaragua's Contra rebels and lay at the heart of the "Iran-Contra" scandal.

Although Congressman Boland rose to become a figure of national prominence, he never lost sight of his modest beginnings in the Hungry Hill district of Springfield, Massachusetts. Congressman Edward P. Boland is survived by his wife Mary Egan, and four children. His legacy to our nation is a model of leadership born from quiet dignity and integrity.

AIRLINE SECURITY

The SPEAKER pro tempore (Mr. TIBERI). Under the Speaker's announced policy of January 3, 2001, the gentleman from Washington (Mr. INSLEE) is recognized for the balance of the hour, approximately 28 minutes.

Mr. INSLEE. Mr. Speaker, I have come to the floor this evening to comment on what I believe is a major, major step forward in our national security and, that is, the imminent passage of our airline security bill. Our conferees, we have been told, have been successful in ironing out a bill that I think is a real major step forward in several respects. I would like to talk about two of those ways that this bill is really going to advance Americans' sense of security and hopefully instill a fair measure of confidence in airline travel.

The first is that our efforts have been successful to make sure that 100 percent of the checked baggage that goes into the belly of our airplanes in fact will be screened for explosive devices. This is a major step forward to give the traveling public the assurance that any bag that is going to go into the luggage compartment of an airplane, we are going to be assured, does not have an explosive device in it. Given the nature

of the threat, it is high time that the U.S. Congress has passed such a measure. We are told now that our conferees in both parties, in the House and Senate, have agreed on a measure that will set a deadline for the actual implementation of 100 percent screening for checked baggage. We also are told that we are going to have interim measures while we get to that 100 percent use by mechanical devices, by some of the sophisticated machinery, to be assured that we cannot see a plane taken down out of the sky.

This has been the result of a lot of effort here in Congress, but I want to pay a real congratulatory note to two gentlemen who have been working for over a decade now to achieve that end, and those gentlemen are Bob Monetti and George Williams, two gentlemen each of whom lost a son in the Lockerbie bombing in Scotland in 1988. Bob Monetti, who lost his son Rick, a Syracuse student, in that bombing and Mr. Monetti since then has been working with the community of families that lost members in the Lockerbie bombing to try to get this Chamber, the U.S. House, and the Senate, to pass a provision to assure that that type of tragedy cannot happen again.

I have met Mr. Monetti; he is a great leader in this regard and has been a conscience of his community to see to it that the House of Representatives would act. I have also met Mr. George Williams, who lost his son Geordie, an American soldier, Mr. Williams, a proud Marine. I really want to thank Mr. Williams for his efforts to make sure that the U.S. Congress would finally act to see to it that other family members do not have to suffer a loss that they have done. I think it is a real mark of tribute to these families that they have hung in this effort for over 10 years to see to it that the Congress would finally act.

Now in the next day or two, we will be voting on a provision that will finally achieve their goal of having 100 percent screening. I want to thank Mr. Monetti and Mr. Williams and all of the Lockerbie families for their efforts to educate us in Congress about the need for this. I hope they take some measure of satisfaction. I know Rick and Geordie would be real proud of their fathers when this bill passes, as we were of them.

I also want to thank some of our cosponsors, the gentleman from Ohio (Mr. STRICKLAND), a Democrat, who has insisted on this; the gentleman from Connecticut (Mr. SHAYS), a Republican. The gentleman from Connecticut has been a great, great leader on many reform efforts. He has been instrumental in convincing some of the leadership on the Republican side of the aisle in including this measure in the eventual airline security bill. I consider this a bipartisan success through the efforts of the gentleman from Connecticut and several other Republicans, the gentleman from Massachusetts (Mr. MARKEY) and others on our side of the aisle

who have gotten this in. We are happy that we have finally achieved this end, that we can now tell Americans that they will be able to have the peace of mind when they get on an airplane that we are not going to have explosives in the belly of the airplane.

There are a couple of things we hope that both our conferees, if this has not been totally finalized, and our friends at the FAA and the Department of Transportation need to be attentive to, and, that is, that we need to very quickly evaluate the screening devices for various types of technology to make sure that we use the most effective, the fastest, the most efficient, the most cost-effective means of screening this baggage. We brought to the Cannon House Office Building last week some new technology that we hope that the FAA will look at very closely when we choose which types of screening machines to use. We want the FAA to be very open in its assessment so we have the fair opportunity to assess all of the technologies, and there are several types of machines that use several types of technology to determine whether there is an explosive device in a bag. We are going to be working diligently with the FAA to make sure that they have a fair evaluation process to decide which type of technology to implement throughout our Nation's airports. In doing that, we are going to be very insistent that we fully mobilize the industrialized base of the United States.

Some time ago, the FAA talked about getting this done in 10 years or more, to get enough machines in our airports to get this done. We are not going to wait that long. We need to do the same kind of industrialization and mobilization that happened in World War II. We built about 10 or 12,000 B-24s in World War II when we fully mobilized our industrial base. We have got to do the same thing with these machines. We need a couple of thousand of them, and we need to find the licensing and a contractual way to fully engage the manufacturers of this country to get this done right away. We are going to be very insistent on that. We look forward to working with our agencies to make sure we make this decision promptly and in a way that gets the best technology into our airports.

The other aspect of this bill that we are very, very pleased about is that it will have a quantum leap forward in the quality of screening of the individuals who screen passengers when they go through these screening gates heading for their airplanes. We have had such a litany of failure. We have had such a disastrous experience with private companies, low-bid contractors, who have allowed these types of failures to occur. Now we have finally agreed and our conferees have agreed to essentially ensure that we will have Federal employees who, in fact, will man these stations in the next 2 years. We are very happy that that assurance will be given to the traveling public. It

is time that we have the same level of protection of folks when they get on airplanes as we do when we have folks coming across our borders, namely, we have Federal employees who have been certified and trained, that work for Uncle Sam; the same type of assurance we have with FBI agents; the same type of assurance we have for fire and police personnel who work for the public and are certified and trained appropriately. We are going to require that and that that will happen.

As you know, as with any legislative process, there has been some give and take in fashioning that, the give and take as some of the Republican leadership has resisted this idea, and we have been told that in this provision, there will be a provision that 2 years from now, airports that wanted to petition the agency to have a private contractor do this work, if they can convince the agency that that was a good idea, they would at least allow that argument to be made. But with all due respect, we do not think there is going to be any such petitions because the traveling public is going to learn that the best way to get this done is to have Federal employees to do it, and we are confident that that is going to be the case; and we feel good about the strides that have been made.

We want to compliment our friends across the aisle who showed some bold leadership to move this effort forward. I see the gentleman from Iowa (Mr. GANSKE) here. I do not know if he wants to join in this colloquy or not, but I would be happy to yield to him if he would like to join me in this regard.

Mr. GANSKE. I appreciate the recognition.

On September 11 when we saw the airplane fly into the World Trade Center after the first one had already struck the first building and we kept seeing it and seeing it again and again on TV, it really brought home the fact that an airplane full of jet fuel is a flying bomb and we lost 5,000 plus American lives in that attack on our country, really more than twice as many American citizens as we lost in the attack on Pearl Harbor.

□ 1845

So, Congress has been struggling a little bit to come to a resolution on how to improve the security in our Nation's airports and on our airplanes, and I applaud the conference committee for coming together on this issue.

What we really need is, we need secure cockpits, we need more air marshals. Those things will be achieved in this bill. We need to make sure that people getting on to airplanes do not carry weapons. We need to make sure that the luggage that gets stored in the belly of those airplanes does not have a bomb.

That means that the people who screen the people walking on the planes and the people that screen the baggage need to be professionals. Un-

fortunately, we have had a situation in this country where, largely, the screening has been done by three foreign corporations, hiring people at the minimum wage, not doing security background checks, being fined millions and millions of dollars and still not correcting their operations, being fined by the FAA.

This is not just a problem in the United States. Securicorp, the parent company of Argenbright, has had the same types of problems at Heathrow in England. So, since September 11 we have seen more than 70 violations where people have gotten on to airplanes or gotten through the screeners carrying such things as seven knives, a can of mace and a stun gun, as an example.

It is clear that we need to improve the performance, professionalize those screeners. We made strong arguments here on the floor of the House a week or so ago that the proper way to do that is to transfer that responsibility from the airports and the airlines to the Federal Government.

The bill that we voted on, some of us voted for on the House floor, would have moved that to the Department of Justice, as the bill which passed originally in the Senate. In this compromise, that will still be handled under the Department of Transportation. However, all of these screeners will now be Federal employees.

But there are important provisions in this conference bill that duplicate some of the provisions we had in the Senate bill.

Number one, those screeners cannot go on strike. They just cannot walk off the job.

Number two, if they are not performing the job, then they get fired. They get laid off immediately and can be fired, because under the terms and conditions of this conference report, they will not be under regular civil service rules. So they will be the what are excepted government employees, E-X-C-E-P-T-E-D, government employees. This will be the same whether you are talking about a big airport, one of our hubs or our smaller airports.

I think this is a good thing coming out of the conference, because we learned from September 11 that we also need to have very good security at our smaller airports, because some of those terrorists enter the system through the smaller airports, and, once they are passed the screeners, then they do not get examined again.

So what the thrust of this conference report will do is to make sure that these screeners get professional training, that they meet professional standards, that they will make a decent living wage, so that they do not just run down the hallway and take the next job that is open at McDonald's, that they will view themselves as a professional in terms of law enforcement, similar to what we have with Customs inspectors and officials.

That changes the whole mind set of the people who do those jobs. I think it

is very, very important. Yet, at the same time this conference report, this compromise, addresses concerns that people had with regular civil service, in that they were worried that if a person was not doing their job, that you could not get them off the job or replaced in a reasonable period of time. Because this is a job, these screener jobs are, in my opinion, professional law enforcement-type jobs, and I think we learned on September 11 that, you know, aviation security is a matter of national security, and national security is something that we all take an oath to uphold when we say that we will defend the Constitution, because the Constitution says that we will do our best job to secure the protection and the national defense.

So, I, too, am pleased with the conference report that we are going to vote on tomorrow. I expect we will have an overwhelming vote for this conference report, President Bush will sign it, and we will start to get on our way to having better security.

I think the gentleman was absolutely correct, it will take a little while to transition. You know, there will be some mistakes made. Nobody and no system is perfect. But the question is, will we have a better system? And I think this conference report will do that.

Mr. INSLEE. I thank the gentleman for his leadership on this issue. It is a very difficult position, and the gentleman did an admirable job getting this issue before on your side of the aisle. We appreciate that very much.

I would now like to yield to the gentleman from Ohio (Mr. STRICKLAND), who has been a cosponsor of the bill that started the 100 percent checked baggage requirement going and the amendment.

Mr. STRICKLAND. I want to thank my friend from Washington State. You know, oftentimes when we stand in this chamber, we find that we are being critical of each other. But I would like to begin my statement by just pointing out that the gentleman from Iowa (Mr. GANSKE) has been really wonderful on this issue.

I am a Democrat, you are a Republican. But I have observed you during the course of your tenure in this House, and not only on this issue, but on the Patients' Bill of Rights and on many other issues. The gentleman has been such a worthy Member and has fought for really good causes. I thank you for your great efforts on this legislation.

I also want to thank my friend from Washington State (Mr. INSLEE). I really believe that the emphasis on screening all of the baggage that goes into the belly of our airplanes, which has been included in this compromise, I believe that provision perhaps would not have been included had it not been for your efforts.

So I suppose this is an evening when we stand on this floor and, instead of being critical or talking about the things that we wish would happen, we in a sense celebrate the fact that, after

weeks of work, that we have been able to reach a compromise. But it is not a compromise on safety, it is a compromise on strategy and process.

I think what we have done is come up with a bill that will make the American traveling public much safer. That is something that both sides of this chamber should feel good about.

I do not think either side, Democrat or Republican, can claim total victory in terms of getting their particular point of view put forth in this compromise, but I do think this is an example of how the process can work and should work. It has worked with this issue, and it is my hope that in the remaining days of this session of our Congress, that this kind of process could work to get a Patients' Bill of Rights brought before us, to get an education bill brought before us. We still have some time remaining before we have to draw this session to a close, and the fact is that we will get nowhere as long as we are unbending and uncompromising. But if we work together for the good of the country, I think we can accomplish a great deal of good.

So I feel some relief tonight. I stood last week where the gentleman is standing, and I said that if the American people will just simply allow their voices to be heard, if they will communicate their strong desire for an airline security bill to the Members of the House and the Senate, that we can get this done before we leave here.

I believe over the last several days the American people have expressed themselves very clearly and very strongly. They want to feel that it is safe to get on an American airliner and fly. They want to know if they put their families on that airliner, that everything that can be done has been done to see that their family members are going to be safe. They want this chamber to work together cooperatively to do the people's business.

So, as we found out throughout the course of this day, we have been able to accomplish that, and tomorrow I think we are going to have a very strong vote on this bill, the President will sign it, and we can say to the American people and to our individual constituencies that we have done our part to make sure that they are safe when they fly.

Is it perfect? No, it is not. Will it solve all the problems? No, it will not. There will be no perfect solution to the problem of airline security.

One of the things that I continue to be concerned about, as I know my friend from Washington State is concerned about, is whether or not we are moving as expeditiously, as rapidly as we should, to make sure that all the luggage that is placed on our airlines, all of that luggage is screened for explosive devices.

But this is a major step forward, and I believe we eventually will get to the point where people can say that my government has done all that it can do to make sure that I am safe when I get on an airliner.

Mr. INSLEE. I thank the gentleman, and I appreciate all your great work. When we started this dialogue several weeks ago, it was a little bit lonely talking about that checked baggage. But I agree with the gentleman: The American voice was heard. We shared some information with America, namely, that not enough of these bags were being screened. Americans responded, they let their legislators know what they thought, and we have this product.

So we want to thank Americans for their part in achieving this end, and we will look forward now to passage of this in the next day or two, and realize that we have a real step forward in airline security.

Mr. STRICKLAND. If I could just say another word, I mentioned earlier the tenacious fight of the gentleman from Iowa (Mr. GANSKE) for a strong Patients' Bill of Rights. Perhaps the American people can do for a Patients' Bill of Rights what they have done for airline security legislation if they just simply let their Member of Congress or they let their Senator know how important this is.

I stood on this floor a few weeks ago and I talked about one of my constituents, a young woman, 41 years of age, whose name was Patsy Haines. She had leukemia, and she needed a transplant, a bone marrow transplant. She had a brother who was a perfect match. The insurance company was saying to her they were not going to pay for it.

I went to the James Cancer Center in Columbus, Ohio, a wonderful institution where they do great research. I talked with cancer specialists. They talked with my constituent, these wonderful well-trained doctors and researchers. They talked with my constituent, they talked with her personal physician, and they concurred that she needed this transplant, and, if she received it, she quite possibly would be cured of her condition and live a long life, and the chances were if she did not receive this treatment, that she almost certainly at some point in the future would lose her life.

I went to Secretary Thompson and talked with him about it, and he was wonderfully sympathetic. In fact, I wrote the Secretary a letter today thanking him for his concern for Patsy Haines.

But the fact is that the only way she got this surgery, and, by the way she got her surgery last week and we are staying in touch on a daily basis to see how she is doing, but the way she got her surgery was for Uncle Sam to come along and provide it. The Medicare system provided this surgery. Her insurance company never relented. So here Uncle Sam comes to the rescue.

But when I think of Patsy Haines and her critical condition tonight, and our great hope that she is going to recover and continue to be a wife and a mother to her child, I am reminded that there are many people in this country who face similar circumstances and who

need the protection that this House of Representatives can give them.

So I just hope that the people in this country, as they did with the airline security bill, will contact Senators and Congress Members and say get this bill passed so that we can know that we are being protected in terms of our health care.

Mr. GANSKE. If the gentleman would yield further, I thank the gentleman from Ohio and the gentleman from Washington for their kind words.

The economy is in a real slump right now, and insurance premiums have gone up a lot. People are being laid off work. So there is a real problem with access to health care. However, as those HMOs start to squeeze down, I predict that we are going to see more and more examples again of people not getting the type of necessary medical care that they deserve and that they pay a lot of premiums for.

I assure the gentleman that we will continue to push continue to push for a strong Patients' Bill of Rights. The conference has not even yet been named, partly, I think, because of September 11 and because we have had to deal with a number of emergent issues, such as aviation security, and also something I am going to speak about in the next half-hour or so, bioterrorism. But that does not mean that when we come back after Christmas, the beginning of next year, that we should not refocus attention on some of these issues that we have debated in the past.

I would encourage the gentlemen to listen to part of my next half-hour or so, because I am going to be introducing tomorrow, along with the gentleman from Arkansas (Mr. BERRY), the companion bill to the Kennedy-Frist bioterrorism bill, which does a number of good things to try to address the issue of bioterrorism.

□ 1900

We are looking for cosponsors, we are going to drop that bill tomorrow sometime, and I would encourage my colleagues' participation in this, because I know both of my colleagues have been very interested in health issues. I think that this is a really good bill; it is a bipartisan bill. It is not a bill on the cheap, but it is not a profligate bill either. It will address many issues that our constituents are asking us about in terms of their threat from such things as anthrax and smallpox and potential epidemics. So once again, I thank both the gentlemen for their kind remarks.

Mr. INSLEE. Mr. Speaker, I would love to listen to the gentleman's presentation, but I have a meeting with an incredible high school teacher named Mary Linquist of the famous Linquist teaching family that I have to keep to tackle educational matters, but I will look at the gentleman's bill and I thank the gentleman for his work on that.

Mr. Speaker, with that, I would like to thank the gentleman from Ohio (Mr.

STRICKLAND) and others who participated in this. We are going to look forward to good success over the next 2 days. This is good news for the American people.

THE THREAT OF BIOTERRORISM IN AMERICA

The SPEAKER pro tempore (Mr. FORBES). Under the Speaker's announced policy of January 3, 2001, the gentleman from Iowa (Mr. GANSKE) is recognized for 60 minutes as the designee of the majority leader.

Mr. GANSKE. Mr. Speaker, September 11 did change this country. As we were just discussing here on the floor, all of us have very vivid memories of September 11. We see images seared into our minds of airplanes flying into buildings, those tall World Trade Center buildings collapsing, clouds of evaporated concrete, steel, glass, and our fellow human beings rolling down the streets. I have a picture in my mind of the flaming crater of the Pentagon and an American flag flying in front of it.

A few days after September 11, I visited ground zero. At that time there were six or seven stories of smoking rubble. I will never forget that visit. I kept seeing superimposed on that horrific sight, essentially the graveyard of 5,000 innocent Americans, words that I had seen written on the wall of a family relief center just a short time before visiting ground zero. This was a family relief center where families of victims could come in, get financial help and get counseling as well. All along one wall for probably about 100 yards, families had brought in pictures of their mothers and fathers and sons and daughters, put them on the wall and then written personal notes to them, and there were flowers and candles underneath these pictures. I kept seeing, as I was looking at that pile of rubble, I kept seeing the handwriting of a little girl. One could tell she was just learning to write from her handwriting and it said, "Daddy, I miss you. I will love you always."

I will tell my colleagues something. We still grieve for those victims. Every day in The New York Times there is one full page of obituaries from the victims of that attack. A little picture and a little story or vignette about that particular victim. I do not know about my colleagues, but I can only read about two or three of those, and that is all I can read for that day. They are very human stories. Because they remind us that these were people just like our neighbors, members of our families, and we grieve for these victims. We grieve for the victims of the bioterrorist attacks, the anthrax attack that has killed people and made many others sick.

I remember from September 11 about 170 Members of Congress gathering on the steps of the Capitol in the lengthening twilight shadows to say a prayer for those victims. As our leadership,

both parties, was walking off the steps, somebody started singing God Bless America. I felt a real sense of unity at that moment, because we were standing there, not as Republicans or Democrats, but as Americans. And the message that day and today and tomorrow to those terrorists is that we are one Nation, united we stand. You can challenge our Nation's spirit, but you cannot break it. And we will chase down to the ends of the Earth, if necessary, the terrorists who caused this attack on our country. Justice demands it for the victims' families, and our national security demands it.

I commend the brave men and women who, even at this moment, are fighting in Afghanistan, flying airplane raids against the Taliban, a thoroughly despicable lot, the Taliban and the terrorists they harbor. People who have taken little girls who have dared to do something like go to school, taken them to a soccer field and killed them.

The war is going well, but as President Bush has rightly said, this is a war that will probably go on for some period of time. It will not be easy to root out the nests of those vipers. They are intertwined throughout Europe in their nests and probably some yet in the United States. So we are devoting a lot of resources to find them. This Congress has acted on this. We have passed legislation to give assistance to our security forces and to our military, to give them the tools they need to find out these terrorists before they commit an act like an airplane hijacking or lacing letters with anthrax and sending them through our mail system.

I think we have done a pretty good job here of, in a bipartisan fashion, crafting, drafting legislation, getting it signed with overwhelmingly bipartisan votes and to the President's desk for his signature that balances the rights of individuals to their privacy and their constitutional protections and yet, at the same time, recognizes that one of the most important constitutional protections is to our citizens' health and safety.

Now, prior to coming to Congress I was a physician. I have taken care of patients with some pretty serious infections. I have treated patients who have had what is called necrotizing fasciitis, or in the popular vernacular, it is called the flesh-eating disease. But I will admit that when we found that there was anthrax that had gotten through the mail, contaminated the Hart Office Building, contaminated my office building, the Longworth Building, I needed to go back and review a little bit on the biology of anthrax and look up again some of my old medical textbooks on smallpox.

Mr. Speaker, we had thought that we had eradicated that disease from the world, and yet we are finding out that there very well may be supplies of anthrax not just in secure labs in the United States and Russia, but potentially also in some terrorist states. Something to worry about.

This last weekend I was in Iowa, I had several meetings; and I will tell my colleagues that people are concerned about aviation security and they are concerned about a bioterrorist attack. I would recommend to my colleagues that they see or watch the program that was on WETA just a few nights ago on bioterrorism, as well as constituents. We have even had a few phone calls from constituents back home who have been unhappy that we have answered their letters and sent them replies from Washington. One lady phoned up rather irate saying she did not want to get any letters from Washington that might be contaminated with anthrax. That may seem funny to some, but it was not funny to that lady. And so I believe that Congress needs to, before we leave for the end of the year, we need to deal with a bill to improve our national ability to deal with a bioterrorist attack, certainly one that could cause an epidemic.

It has been clear for many, many years that the managed care revolution has trimmed all the fat out of our health system and I would argue has trimmed bone and sinew as well. There is no hospital in this country, in my opinion, that is capable of handling an epidemic. I do not care whether we are talking about Johns Hopkins up the road in Baltimore or we are talking about the University of Iowa hospital in Iowa City, or if we are talking about your local hospital. There is no excess capacity in our health system to handle the massive type of casualties that we could see from a bioterrorist attack. Believe me, the threat is real.

All we need to do is read a few books. So here are my suggestions to my colleagues. The first book on the reading list, I think this should be required reading for every Congressman and every Congresswoman. That is a book out called "Biological Weapons and America's Secret War—Germs," by Judith Miller, Stephen Engelberg and William Broad. This should be required reading for every Congressman and every Congresswoman. It is readable; it is understandable. It does not deal just with biology, but it deals with the bioterrorist threat.

There is another book that people should read, or at least parts of it. It is by a fellow named Ken Alibek, and it is called "Biohazard." It is referenced in this book "Germs."

Now, let me read a section. Ken Alibek was a Russian scientist who did germ warfare for the Soviet Union. He changed his name when he defected to the United States. His real name is Kanatjan Alibekov. He changed it to sound more American. Here is what this, a short section of what this book "Germs" says about the type of information Mr. Alibek brought to our intelligence agencies. What Alibek had to say was horrifying: "Moscow," he reported in grim detail, "had secretly produced hundreds of tons of anthrax." Let me repeat that. "Hundreds of tons

of anthrax, smallpox, plague germs meant for use against the United States and its allies.”

□ 1915

The amounts dwarfed anything American experts had ever imagined. Alibek also described a germ empire that stretched from the Soviet Council of Ministers to the Soviet Academy of Sciences through the Ministries of Health, Defense and Agriculture and into the Biopreparat, his own ostensibly civilian pharmaceutical agency.

In fact, Biopreparat was a biologic war machine that employed tens of thousands of people at more than 40 sites spread across Russia and Kazakhstan. We were worried about this.

This book goes through the long history of biologic warfare research, but we were particularly worried because there filtered out of the Soviet Union reports of an epidemic, an anthrax epidemic in one of these towns that proved to be a research town.

For years we tried to figure out whether in fact this had been tainted meat, like the Soviets had said, or whether in fact there had been a release of aerosolized anthrax by accident from one of the Soviet bloc labs. It turned out in the end that it was a leak, and there was a very significant contamination and loss of life in the Soviet Union from that.

The United States carried on research, too, but nothing to the scale of the Soviet Union. What is worrisome is that after the collapse of the Soviet Union and the economic chaos that has ensued, so many of these biologists in the Soviet Union that were doing the type of research that Mr. Alibek was doing were basically unemployed. They were destitute.

It is fair to say that our defense and our intelligence agencies, members high up in our government, have been very concerned that these individuals and their expertise could get to terrorist states. So, all of a sudden when we had these letters laced with anthrax, the public became very aware of this potential threat.

Now, I should point out that this attack with anthrax was not the first biologic terrorist attack in the United States. I did my general surgery training in Oregon. Shortly after I left Oregon to go to Boston for some additional training, 750 people in a little town in eastern Oregon became deathly ill with salmonella.

The CDC sent investigators, and they just could not crack what happened. Eventually they said in the end, I think it is an accidental exposure, food poisoning.

It was about a year later that the true story came out. The story was, and this is the truth, that there was a group of Rajneeshis that had a compound in this county in eastern Oregon, thousands of Rajneeshis under the aegis of the Bhagwan.

They had had a lot of trouble with the county government, so a county

election was coming up. They wanted to put up their own slate of candidates and win that election.

So what did they do? They set up a medical corporation. They bought a bunch of incubation equipment. By having that medical corporation, they were then able to purchase from a lab in Maryland all sorts of different organisms, like salmonella. But they could have easily used typhoid and gotten the bugs.

Fortunately, they decided not to use something like typhoid, so what they did was they grew cultures and they brewed up a batch of salmonella. They put it into little slurries and they went to every restaurant and they sprinkled it over the salad bars.

I will bet Members think I am making this up. It is well documented. It is documented in this book. It was documented, but a lot of people did not know this full story until interviews were done years later. Consequently, about 700-plus citizens became deathly ill right around the time that there were elections. Fortunately, none of those people became so sick that they passed away.

I can tell the Members that I have had some personal experience with food-borne infection. A few years ago I was on a surgical mission down in Peru and ate some contaminated food and came down with a bad case of encephalitis, and nearly passed away. It is no fun to catch food-borne illnesses.

So this problem that we are looking at runs across many different aspects of American life. I believe that we need to address this before we leave for the end of the year.

It is clear that the United States faces a grave and I think growing threat from bioterrorism. There is some evidence that Osama bin Laden and his people have tried to develop biologic agents. We know that a terrorist group in Japan tried planting biologic agents in subways.

We have also found that the recent rather limited anthrax attacks on our country have stretched to the breaking point Federal, State, and local public health abilities, so I think we need to substantially invest in some bioterrorism preparedness. As I said before, a major epidemic I think would overwhelm our hospitals. It would overwhelm our Federal, State, and local health agencies, as well.

We need to be able to respond to a bioterrorist attack. We need to do things to improve the ability of victims to survive, improve our ability to treat the victims of an attack in a hospital. I think we need to improve our ability to contain an epidemic by expanding treatment. That means increasing our supplies of drugs, our pharmaceutical stockpiles. We need to accelerate the development of new treatments, including a smallpox vaccine.

So tomorrow, the gentleman from Arkansas (Mr. BERRY) and I will introduce in the House a companion bill to

the bill that Senator BILL FRIST and Senator KENNEDY introduced on the Senate side today. It is called the Bioterrorism Preparedness Act. Let me just briefly summarize a few things that this bill does.

It would upgrade Federal capacity to respond to bioterrorism by expanding the strategic national pharmaceutical stockpile. It would expand the Centers for Disease Control capacities and improve training.

Public health laboratories, our laboratories, have been severely stretched in trying to deal with all of the types of cultures that we have been doing with just this anthrax attack. We need better disease surveillance so that we can coordinate information from all around the country, so that we have early warning systems and will be able to respond to those.

We need to enhance the controls on dangerous biologic agents. Anthrax is an organism that exists in the soil around the United States. We still see a sporadic anthrax case in cattle, for instance. There have been many, many sites around the country that have anthrax in their storerooms, in their stores, in their labs, because they have been doing research on this as it relates to animal diseases.

We need to make sure that those dangerous agents are properly secure so that they cannot be stolen. We need to improve the response at the State and local level.

Mr. Speaker, the States right now are having a tough time because, as the economy has gone down, we will see in practically every State's newspapers problems with meeting their State budgets. This is the case in Iowa. Our legislature just had a special session where they did an across-the-board 4 or 5 percent cut in Federal-State spending, but it is clear that these State public health services have been trimmed for several years and are very, very insufficient.

So we need to provide grants to the States, in my opinion, to assure for adequate planning and preparedness. We need to equip hospitals to respond to this threat. We need to develop new treatments, vaccines. We need to accelerate the production of the smallpox vaccine. We need to expand research grants for new product advancement. We need to authorize long-term contracts for vaccinations and drug development and be able to do it in a way that we do not violate things like anti-trust.

We need to improve research and development coordination through both public and private partnerships.

We need to improve our food safety. We have an awful lot of food coming into this country from foreign countries. We need to make sure that there are no accidental exposures or acts of bioterrorism related to food coming into this country.

If nothing else, we need to make sure that our borders are secure so that somebody does not try to introduce, let

us say, hoof and mouth disease. Hoof and mouth disease resulted in a several billion dollar loss in England alone. If hoof and mouth disease were used by terrorists in this country, it could wreak economic devastation on our agricultural sector and significantly hurt the whole economy. We need to address that.

We need to increase inspections of food and products coming into this country. We need to improve the Federal Government's capacity to prevent and detect those terrorist activities on agriculture.

Now, we cannot do this on the cheap; but at the same time, we need to be careful that we spend wisely. Senator FRIST and Senator KENNEDY introduced their bill today. This bill would cost about \$3.2 billion. Let me run briefly through some of the areas where we need to do some spending and put this into perspective.

I have already mentioned that we need to improve the national strategic pharmaceutical stockpile. This would increase the coordination of activities, increase the amount of necessary therapies, including therapies for post-exposure vaccines. I think it would be reasonable to spend about \$640 million on this.

If we then moved down to title IV in the bill, smallpox vaccine, this would cost roughly \$500 million. So if we add up the drugs that we need plus the vaccines we need, we are already at about 1.2, \$1.1 billion. That is with nothing else. If we stopped at \$1.2 billion, we would have nothing left for doing the other things that we need to do.

For instance, we need to upgrade the CDC's bioterrorism capabilities. Under the bill that the gentleman from Arkansas (Mr. BERRY) and I will introduce tomorrow, we set aside \$60 million for that.

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We need to improve the public health laboratory network through the CDC. That would be another \$60 million. We need to improve State and local preparedness capabilities.

There are about 280 million Americans, roughly speaking, in this country. We are proposing spending about \$1 billion in order to create a new emergency State bioterrorism program, a grant program that would assist all States in achieving some minimal levels of preparedness. We need to strengthen the current 319(C) grant programs to allow project grants to address public health capabilities.

Now, think of that, 280 million Americans, about \$1 billion; we are talking about probably less than \$3.75 per American to do this. Do you think most Americans think that that is too much to spend on being able to combat a terrorist activity at their State and local level?

What about hospitals? As I said before, hospitals have been cut to the bone. In Iowa, especially some of the rural hospitals, it is even worse than

that. They are already in the red because of low reimbursements rates from Medicare and from HMO's. So what do we need to do? We need to assist hospitals who are part of a consortium that would respond to an attack. I think a figure of about \$375 million is a reasonable figure for that.

Finally, I talked a little bit about things we need to do for agriculture. We have about \$500 million budgeted into this bill for that. These are not huge sums when you are talking about a country as big as the United States. This comes to about \$3.2 billion. As Senator FRIST said today, we think that this amount is enough to get us ready, to take us from an unprepared state, to get us to a prepared state. We may need to do more later on. But this is a good start.

Let me go into a few more details about the bill. Title I of this bill, the Bioterrorism Preparedness Act of 2001, basically deals with national goals to deal with this terrorist threat. The Bioterrorism Preparedness Act states that the United States should further develop and implement a coordinated strategy to prevent and, if necessary, to respond to biologic threats and attacks. I do not know anyone in this Congress that would disagree with that.

It further states that it is the goal of Congress that this strategy should, number one, provide Federal assistance to State and local government in the event of a biologic attack; number two, improve public health, hospital, laboratory communications and emergency response preparedness; number three, rapidly develop and manufacture needed therapies, vaccines, medical supplies; and number four, enhance the safety of the Nation's food supply and protect its agriculture from biologic threats. Noncontroversial section.

Title II of this bill, improving the Federal response to bioterrorism. This is important. It may sound a little dry, but unfortunately, we have a situation now where you have this responsibility spread out through about 40 different agencies. That is part of the reason why President Bush stood on this floor and said we need a director of homeland security. We need to consolidate. We need to streamline.

Title II of this bill does this because it requires the Secretary of Health and Human Services to report to Congress within 1 year of enactment and 2 years afterwards on progress made towards meeting the objectives of this act. It provides authorization for the Strategic National Pharmaceutical Stockpile. It provides additional resources to the Centers for Disease Control to carry out education and training initiatives, to help those health professionals who are going to be on the front line, the first responders to a terrorist attack, to recognize in early stages when treatment may be effective, diseases such as anthrax.

We need to improve the Nation's lab capacity. We need to establish a na-

tional disaster medical response system of volunteers who can respond at the Secretary's direction to a national public health emergency.

This bill amends and further clarifies the procedures for declaring a national public health emergency. It expands the authority of the Secretary during the emergency periods.

Today, before the Committee on Energy and Commerce, Secretary Tommy Thompson testified. He said very good things about this bill. The fact that the administration has worked hand-in-hand with Senator FRIST, Senator KENNEDY, Senator PAT ROBERTS, Senator CHUCK HAGEL, Senator EDWARDS and others to come to reasonable ways so that the Secretary can actually do his job.

A report by the General Accounting Office raised concerns about the lack of coordination of Federal anti-bioterrorism efforts. Therefore, this bill contains a number of measures to enhance that coordination and cooperation among various Federal agencies. Secretary Tommy Thompson agreed.

Title II establishes an assistant secretary for emergency preparedness at HHS. It creates an interdepartmental working group on bioterrorism that would include the Secretary of Health and Human Services, the Secretary of Defense, Veterans Affairs, Labor and Agriculture, FEMA, the Attorney General and appropriate other Federal officials because all of these officials are called upon to respond in this type of attack, and we need to have coordination in a working group.

Additionally, Title II helps the Federal Government to better track and control biologic agents and toxins. The Secretary would be required to review and update a list of biologic agents and toxins that could pose a severe threat to the public and to enhance regulations regarding the possession, use and transfer of agents or toxins.

Remember, I was telling the story about the Rajneeshis and how they were able to obtain these biologic agents. This section deals with that. Violations of these regulations could trigger civil penalties of up to 500,000 and criminal sanctions could be imposed.

Title III, we need to improve State and local preparedness. Numerous reports in recent years have found that the Nation's public health infrastructure is lacking. For example, nearly 20 percent of local public health departments have no e-mail capability. Fewer than half of our public health agencies have Internet or broadcast facsimile capabilities. Think of that. Half of our public health departments do not have fax transmission.

Before September 11 only one in five U.S. hospitals had a bioterrorism preparedness plan of any sort. Title III addresses this situation by including several enhanced grant programs to improve State and local public health preparedness.

Today, Secretary of Health and Human Services Tommy Thompson

agreed. That is the former governor of Wisconsin. He knows what this is like. He knows how States are strapped for cash, how State public health departments have suffered, and how we need to do something to help.

So there would be grants given in this bill for those States. Activities funded under the grant would include conducting an assessment of core public health capacities, achieving the core public health capabilities and fulfilling preparedness plans. The bill would also establish a new grant program for hospitals, as I have mentioned.

Title IV, developing new countermeasures against bioterrorism. As I said, we need to expand our Nation's stockpile of smallpox vaccine, critical pharmaceuticals. Title IV gives the Secretary authority to enter into long-term contracts with sponsors to guarantee that the government will purchase a certain quantity of vaccine at a certain price.

This problem with vaccines has been one that has vexed the government for a number of years. The pharmaceutical companies traditionally have not been interested in producing vaccines. It is not a big money maker for them. Maybe one person in a million can suffer a serious problem, including death from a vaccine. It probably is closer to four to six people can suffer some serious permanent sequela from a vaccine and one person might die out of a million. Consequently, there have been problems with lawsuits and liability related to that.

The lab that the government has wanted to produce the anthrax has had real problems with control and sterility and cleanliness. It is clear we need to devote some funds for this.

Title V deals with our Nation's food supply. With 57,000 establishments under its jurisdiction, we have only 7- to 800 food inspectors, including 175 import inspectors for more than 300 ports of entry into this country. The FDA needs increased resources for inspections of imported food. There is no question about that. Secretary Tommy Thompson agreed with that today.

The President's emergency relief budget included a request for 61 million to enable the FDA to hire 410 new inspectors, lab specialists and other experts, as well as to invest in new technology and equipment. We think that should be done.

Title V grants the FDA needed authority to ensure the safety of domestic and imported food. It allows the FDA to use qualified employees from other agencies. It makes sure that the FDA has authority to prevent port-shopping by marking food shipments denied entry at one U.S. port to ensure that they just do not show up at another U.S. port. It gives the FDA additional tools to ensure proper records are maintained by those who manufacture, process, pack, transport, distribute, receive food. It may debar a person who engages in patterns seeking

to import contaminated food. A number of issues are involved.

There is one issue, for instance, local to my State of Iowa. We have in Ames, Iowa, the National Animal Disease Center. They deal with a lot of very powerful infectious diseases. We need to make sure that that facility is secure, and we need to make sure that it is updated and modernized in order to fulfill its function. My colleagues may remember that with these anthrax cases, the anthrax is being traced to a type of anthrax called the "Ames variety."

So these are a number of things that are in the bill that the gentleman from Arkansas (Mr. BERRY) and I will introduce tomorrow, the companion bill to the Senate bioterrorist bill, Bioterrorism Preparedness Act of 2001. I would strongly encourage my colleagues to sign up as cosponsors for this. We already have a fair number of bipartisan cosponsors for this bill. We will be dropping this tomorrow sometime.

This is something that the language will be out there. People can look at it over Thanksgiving recess, and I would hope then that we could have a debate on this, both in the Senate and in the House sometime in the first 2 weeks of December. This is something, along with aviation security, that I think our constituents are demanding that Congress put aside partisan concerns and address as a national security issue.

Once again, I want to recommend to my colleagues that they read this book on germs, become experts on this. We are going to get a lot of questions from our constituents at our town hall meetings. Sign up for this bill and we will be able to tell them some of the good things that we are going to be able to do to try to improve our ability to handle a potential epidemic or bioterrorist threat.

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So with that, Mr. Speaker, I hope that we proceed with this in a timely fashion.

RECESS

The SPEAKER pro tempore (Mr. FORBES). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 7 o'clock and 45 minutes p.m.), the House stood in recess subject to the call of the Chair.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4582. A letter from the Secretary, Department of Health and Human Services, transmitting a draft bill entitled, "Promotion and Support of Responsible Fatherhood and Healthy Marriage Act of 2001"; to the Committee on Education and the Workforce.

4583. A letter from the Secretary, Department of Health and Human Services, trans-

mitting a draft bill entitled, "FDA Export and Import Fee Act of 2001"; to the Committee on Energy and Commerce.

4584. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Veterans' Employment [FAC 2001-01; FAR Case 1998-614; Item IV] (RIN: 9000-AI46) received November 13, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4585. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Very Small Business Pilot Program [FAC 2001-01, FAR Case 2001-001; Item VI] (RIN: 9000-AJ16) received November 13, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4586. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Small Entity Compliance Guide—received November 13, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4587. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Circular 2001-01; Introduction—received November 13, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4588. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Application of the Davis-Bacon Act to Construction Contracts with Options to Extend the Term of the Contract [FAC 2001-01; FAR Case 1997-613; Item I] (RIN: 9000-AI47) received November 13, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4589. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Acquisition of Commercial Items [FAC 2001-01; FAR Case 2000-303; Item II] (RIN: 9000-AI88) received November 13, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4590. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Prompt Payment Under Cost-Reimbursement Contracts for Services [FAC 2001-01; FAR Case 2000-308; Item III] (RIN: 9000-AJ17) received November 13, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4591. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Veterans' Entrepreneurship and Small Business Development Act of 1999 [FAC 2001-01; FAR Case 2000-302; Item V] (RIN: 9000-AI93) received November 13, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

4592. A letter from the Acting Commissioner of Social Security, Social Security Administration, transmitting the Administration's draft bill entitled, "Ticket to Work and Work Incentives Improvement Act Amendments of 2001"; jointly to the Committees on Ways and Means and Energy and Commerce.

4593. A letter from the Secretary, Department of Health and Human Services, transmitting a draft bill entitled, "HHS Bioterrorism Prevention and Emergency Response Act of 2001"; jointly to the Committees on Energy and Commerce, the Judiciary, and Ways and Means.

REPORTS OF COMMITTEES ON
PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk

for printing and reference to the proper calendar, as follows:

Mr. OXLEY: Committee on Financial Services. H.R. 2604. A bill to authorize the United States to participate in and contribute to the seventh replenishment of the resources of the Asian Development Fund and the fifth replenishment of the resources of the International Fund for Agricultural Development, and to set forth additional policies of the United States towards the African Development Bank, the African Development Fund, the Asian Development Bank, the Inter-

American Development Bank, and the European Bank for Reconstruction and Development; with an amendment (Rept. 107-291). Referred to the Committee of the Whole House on the State of the Union.

Mr. OXLEY: Committee on Financial Services. H.R. 2871. A bill to reauthorize the Export-Import Bank of the United States, and for other purposes; with an amendment (Rept. 107-292). Referred to the Committee of the Whole House on the State of the Union.

N O T I C E

Incomplete record of House proceedings.

Today's House proceedings will be continued in the next issue of the Record.